

BETHLEHEM HOUSING AUTHORITY

PUBLIC HOUSNG PROGRAM

**ADMISSION AND CONTINUED OCCUPANCY POLICIY
(ACOP)**

October 2025

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Draft for Public Comment by October 1, 2025

and

Board Review and Approval by October 13, 2025

2025 Proposed changes are highlighted in yellow

HUD/HOTMA changes on hold are highlighted in red.



.....
A PATHWAY TO EMPOWERMENT

PUBLIC HOUSING PROGRAM

Admission and Continued Occupancy Policy

(ACOP)

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TABLE OF CONTENTS

QUICK SUMMARY

CHAPTER 1: OVERVIEW OF THE PROGRAM & PLAN1-1

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY.....2-1

CHAPTER 3: ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE.....3-1

CHAPTER 4: APPLICATIONS, WAITING LIST, AND TENANT SELECTION.....4-1

CHAPTER 5: OCCUPANCY STANDARDS AND UNIT OFFERS.....5-1

CHAPTER 6: INCOME AND RENT DETERMINATION6-1

CHAPTER 7: VERIFICATION.....7-1

CHAPTER 8: LEASING AND INSPECTIONS.....8-1

CHAPTER 9: REEXAMINATIONS9-1

CHAPTER 10: PETS AND ASSISTANCE ANIMALS.....10-1

CHAPTER 11: COMMUNITY SERVICE.....11-1

CHAPTER 12: TRANSFER POLICY.....12-1

CHAPTER 13: LEASE TERMINATIONS.....13-1

CHAPTER 14: GRIEVANCE AND APPEALS.....14-1

CHAPTER 15: PROGRAM INTEGRITY15-1

CHAPTER 16: PROGRAM ADMINISTRATION.....16-1

APPENDIX A: GLOSSARY OF ACRONYMS.....A-1

APPENDIX B: HOTMA POLICIES ON HOLD.....B-1

BETHLEHEM HOUSING AUTHORITY

PUBLIC HOUSING PROGRAM ADMISSIONS AND CONTINUED OCCUPANCY POLICIES (ACOP)

TABLE OF CONTENTS

CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

Part I: THE PHA

- 1-I.A. Overview
- 1-I.B. Organization and Structure of the PHA
- 1-I.C. PHA Mission
- 1-I.D. PHA's commitment to Ethics and Services

Part II: THE PUBLIC HOUSING PROGRAM

- 1-II.A. Overview and History of the Program
- 1-II.B. Public Housing Program Basics
- 1-II.C. Public Housing Partnerships
- 1-II.D. Applicable Regulations

Part III: THE ADMISSION AND CONTINUED OCCUPANCY POLICIES

- 1-III.A. Overview and Purpose of the Policy
- 1-III.B. Contents of the Policy
- 1-III.C. Updating and Revising the Policy

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

Part I: NONDISCRIMINATION

- 2-I.A. Non-discrimination - Applicable Fair Housing and Civil Rights
- 2-I.B. Providing Information for Family
- 2-I.C. Discriminations Complaints

Part II: LIMITED ENGLISH PROFICIENCY

- 2-II.A. Improving Access to Services for Persons with Limited English Proficiency (LEP)
- 2-II.B. Outreach and Marketing

Part III: VIOLENCE AGAINST WOMEN ACT PROTECTION (VAWA)

- 2-III.A. Violence Against Women Act Protections
 - 2-III.A.1. Definitions as Used in the Violence Against Women Act
 - 2-III.A.2. VAWA Self-Petitioners
 - 2-III.A.3. Prohibition Against Denial of Assistance of Victims of Domestic Violence, Dating...
 - 2-III.A.4. Prohibition Against Termination of Assistance Related to Victims of Domestic ...
 - 2-III.A.5. PHA Confidentiality Requirements – VAWA
 - 2-III.A.6. Notification to Applicants and Tenants Regarding Protections Under VAWA
 - 2-III.A.7. Victim Documentation

- 2-III.A.8. Time Frame for Submitting Documentation
- 2-III.A.9. Perpetrator Documentation
- 2-III.A.10. Terminating Tenancy of a Domestic Violence Offender
- 2-III.A.11. Response to Conflicting Certification
- 2-III.A.12. Emergency Transfer Under VAWA
- 2-III.A.13. Lease Bifurcation – Remedies Available to VAWA Victims
- 2-III.A.14. VAWA Record Retention
- 2-III.A.15. VAWA Reasonable Accommodation
- 2-III.A.16. VAWA Compliant Process [Notice FHEO 2023-01]

Part IV: REASONABLE ACCOMMODATION

- 2-IV.A. Overview
- 2-IV.B. Legal Authority
- 2-IV.C. Application of the Reasonable Accommodation Policy
- 2-IV.D. Policies Related to Persons with Disabilities
- 2-IV.E. Persons with Disabilities Does Not Include...
- 2-IV.F. Definitions of Reasonable Accommodation
- 2-IV.G. Definitions of Disability
- 2-IV.H. Request for Reasonable Accommodation
- 2-IV.I. Types of Reasonable Accommodation
- 2-IV.J. Verification of Reasonable Accommodation Request
- 2-IV.K. Processing Reasonable Accommodation Request
- 2-IV.L. Occupancy of Accessible Units
- 2-IV.M. Offers of Accessible Units to New Applicants
- 2-IV.N. Transfer as Reasonable Accommodation
- 2-IV.O. Service or Assistive Animals Reasonable Accommodation
- 2-IV.P. Program Accessibility – Hearing or Vision Impairments
- 2-IV.Q. Physical Accessibility
- 2-IV.R. Approval/Denial of Request Accommodation
- 2-IV.S. Right to Appeal/Grievance Process
- 2-IV.T. Denial or Termination of Assistance
- 2-IV.U. Privacy

Part V: EXHIBITS

- Exhibit 2-1 Form HUD-5380 Notice of Occupancy Rights Under VAWA /Housing Rights for Victim
- Exhibit 2-2 Form HUD-5382 Certification of Domestic Violence, Dating Violence...
- Exhibit 2-3 Form HUD-5381 BHA’s Emergency Transfer Plan for Victim of Domestic Violence...
- Exhibit 2-4 Form HUD-5383 Emergency Transfer Request for Victims of Domestic Violence...
- Exhibit 2-5 Detailed Definitions Related to Disabilities

CHAPTER 3: ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE

Part I: ELIGIBILITY FACTOR AND REQUIREMENT AT ADMISSION

3-I.A. Eligibility Factors for Admission

3-I.B. Screening and Other Requirement Factor

Part II: FAMILY ELIGIBILITY REQUIREMENTS

3-II.A. Definitions of Family

3-II.B. Family Break Up

3-II.C. Head of Household

3-II.D. Spouse, Cohead, and Other Adult

3-II.E. Elderly and Near-elderly Persons, and Elderly Family

3-II.F. Persons with Disabilities and Disabled Family

3-II.G. Live-in Aide

Part III: INCOME LIMIT/ASSET LIMITATION/INCOME TARGETTING

3-III.A. Income Limit

3-III.B. Asset Limitation for Admission

3-III.C. Income Targetting

Part IV: CITIZENSHIP STATUS

3-IV.A. Citizenship Status

3-IV.B. Documentation of Citizenship or Immigration Status

3-IV.C. Verification of Eligible Immigration Status

3-IV.D. Prorating Assistance for Mixed Families

3-IV.E. Delay, Denial, Reduction, or Termination

3-IV.F. Compliance with Verification Requirements

Part V. DISCLOSURE OF SOCIAL SECURITY NUMBERS

3-V.A. SSN Disclosure Requirements for Applicants Families

3-V.B. SSN Disclosure Requirements for New Household Members – Added to a Participant...

3-V.C. Acceptable Documentation

Part VI: TENANT SCREENING

3-VI.A. Tenant Screening

3-VI.B. Criminal Background Screening

Part VII: EIV SYSTEM SEARCHES AT ADMISSION

Part VIII: NOTIFICATION TO FAMILY

Part IX: DENIAL OF ASSISTANCE

3-IX.A. Denial of Assistance

3-IX.B. Other Permitted Reasons for Denial of Assistance

3-IX.C. Criteria for Deciding to Deny Admission

3-IX.D. Prohibition Against Denial of Assistance to Victims Under VAWA

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

Part I: THE APPLICATION PROCESS

- 4-I.A. Overview
- 4-I.B. Applying for Assistance
- 4-I.C. Accessibility of the Application Process
- 4-I.D. Placement on the Waiting List

Part II: MANAGING THE WAITING LIST

- 4-II.A. Overview
- 4-II.B. Organization
- 4-II.C. Opening and Closing the Waiting List
- 4-II.D. Family Outreach
- 4-II.E. Reporting Changes in Family Circumstances
- 4-II.F. Updating the Waiting List

Part III: TENANT SELECTION

- 4-III.A. Overview
- 4-III.B. Selection Method
- 4-III.C. Notification of Selection
- 4-III.D. The Application Interview
- 4-III.E. Final Eligibility Determination

CHAPTER 5 OCCUPANCY STANDARDS AND UNIT OFFERS

Part I: OCCUPANCY STANDARDS

- 5-I.A. Overview
- 5-I.B. Determining Unit Size
- 5-I.C. Exception to Occupancy Standards

Part II: UNIT OFFERS

- 5-II.A. Overview
- 5-II.B. Numbers of Offers
- 5-II.C. Time Limited for Unit Offer Acceptance or Refusal
- 5-II.D. Refusals of Unit Offers
- 5-II.E. Accessible Units
- 5-II.F. Designated Housing

CHAPTER 6 INCOME AND RENT DETERMINATIONS

Part I: INTRODUCTION

Part II: HOUSEHOLD CHARACTERISTICS

- 6-II.A. Dependents
- 6-II.B. Full-time Student
- 6-II.C. Elderly Families
- 6-II.D. Disable Families
- 6-II.E. Live-in Aides

- 6-II.F. Foster Care Children and Adults
- 6-II.G. Relations Codes on the HUD-50058

Part III: ANNUAL INCOME

- 6-III.A. Annual Income
- 6-III.B. Earned Income
- 6-III.C. Self-Employment or Operation of a Business
- 6-III.D. Elimination of the Earned Income Disregard (EID)
- 6-III.E. Training Program
- 6-III.F. Definition of Unearned Income
- 6-III.G. Social Security and Other Benefits Income
- 6-III.H. Alimony and Child Support
- 6-III.I. Lumpsum Payment from Unemployment or Welfare Assistance
- 6-III.J. In-Kind Income
- 6-III.K. Withdrawal from Investment as Income
- 6-III.L. Welfare Assistance
- 6-III.M. Welfare Benefit Reduction
- 6-III.N. Income for Temporarily and Permanently Absent Family Members
- 6-III.O. Absent Students
- 6-III.P. Absences Due Placement in Foster Care
- 6-III.Q. Absent Head, Spouse, Co-Head, or Adult
- 6-III.R. Family Member Confined in a Nursing Facility or Hospital for Medical Reasons
- 6-III.S. Income of Absences Due to Incarceration
- 6-III.T. Joint Custody of Children
- 6-III.U. Caretakers for Remaining Minor Child

Part IV: ANNUALIZING AND CALCULATING INCOME

- 6-IV.A. Annualizing Income
- 6-IV.B. New Admission and Interim Reexamination Calculation
- 6-IV.C. Annual Reexamination Calculation
- 6-IV.D. Applying the Current SSA COLA at Next Annual and Interim Reexamination
- 6-IV.E. De Minimis Errors

Part V: ASSETS

- 6-V.A. Asset Limitation
- 6-V.B. Asset
- 6-V.C. Passbook Rate

Part VI: DEDUCTIONS AND EXPENSES

- 6-VI.A. Overview
- 6-VI.B. Dependent Deduction
- 6-VI.C. Elderly/Disabled Family Deduction
- 6-VI.D. Unreimbursed Health and Medical Care Expenses and Reasonable Accommodations
Attendant Care and Auxiliary Apparatus Expenses Deduction
- 6-VI.E. Hardship Exemptions for Health and Medical Care Expense and Reasonable

Attendant Care and Auxiliary Apparatus Expenses

6-VI.F. Childcare Expenses Deductions and Hardship Exemption

6-VI.G. Hardship Policy Requirements

6-VI.H. Permissive Deduction

Part VII: ADJUSTED INCOME

Part VIII: CALCULATING TOTAL TENANT PAYMENT

6-VIII.A. Total Tenant Payment Formula

6-VIII.B. Welfare Rent

6-VIII.C. Minimum Rent – Minimum Rent Hardship Exemption

6-VIII.D. Ceiling Rent

6-VIII.E. Flat Rent and Family Choice in Rents

6-VIII.F. Rent Options for Over-Income Families

6-VIII.G. Prorating Assistance for Mixed Families

6-VIII.H. Utility Allowances

Part IX: EXHIBITS

EXHIBIT 6-1: Income Exclusions

EXHIBIT 6-2: HUD Student Aid and Financial Assistance Resource Sheet

EXHIBIT 6-3: Inflationary Adjustment

CHAPTER 7 VERIFICATION

Part I: VERIFICATION REQUIREMENTS

7-I.A. Authorization for the Release of Information

7-I.B. Revocation of Consent – Penalties for Failing to Consent

7-I.C. General Verification Requirements

7-I.D. Substantial Difference

7-I.E. Fraud

7-I.F. Enterprise Income Verification (EIV)

7-I.G. Income Validation Tool (IVT)

7-I.H. EIV Income Reports

7-I.I. EIV Identity Verification

7-I.J. Verification Hierarchy and Techniques

7-I.K. Verification Technique Definitions

7-I.L. When Third-Party Verification is Late

7-I.M. Earned Income

7-I.N. Self-Employment or Business Income

7-I.O. Verification of Assets

7-I.P. Social Security Administration Benefits

7-I.Q. Verification of Unemployment

7-I.R. Verification of Welfare Benefits

7-I.S. Verification of Pension, or Other Income

7-I.T. Verification of Alimony and Child Support

- 7-I.U. Retirement Accounts
- 7-I.V. Zero Income Reviews/In-Kind Income for Zero Income Families
- 7-I.W. Verification of Excluded Income
- 7-I.X. File Documentation

Part II: VERIFICATION OF MANDATORY DEDUCTIONS

- 7-II.A. Dependent and Elderly/Disabled Household Deductions
- 7-II.B. Unreimbursed Health and Medical Care Expense Deductions
- 7-II.C. Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus
- 7-II.D. Unreimbursed Childcare Expenses
- 7-II.E. Verification of Full-Time Student Status
- 7-II.F. Verification of Disability

Part III: VERIFICATION OF FAMILY INFORMATION

- 7-III.A. Verification of Legal Identity
- 7-III.B. Social Security Number
- 7-III.C. Verification of Date of Birth
- 7-III.D. Family Relationships
- 7-III.E. Citizenship or Eligibility Immigration Status
- 7-III.F. Verification of Preference Status
- 7-III.G. Verification of Preference Status
- 7-III.H. Verification of Reasonable Accommodation

CHAPTER 8: LEASING AND INSPECTIONS

Part I: LEASING

- 8-I.A. Lease Term
- 8-I.B. Lease Orientation
- 8-I.C. Execution of Lease
- 8-I.D. Modification to the Lease
- 8-I.E. Modification to the Lease Form By PHA
- 8-I.F. Other Modifications (Material and Service Costs)
- 8-I.G. Security Deposits
- 8-I.H. Payments Under the Lease
 - 8-I.H.A. Payments Under the Lease
 - 8-I.H.B. Late Fees and Non-payments.
 - 8-I.H.C. Utility Charges
 - 8-I.H.D. Maintenance and Damages Charges
- 8-I.I. Minimum Heating Standards

Part II: INSPECTIONS

- 8-II.A. Overview
- 8-II.B. Types of Inspections
 - Annual Inspections
 - Housekeeping Standard Inspection

- Failed Housekeeping Inspections
- Preventive Maintenance Inspection (PMI)
- Real Estate Assessment Center Inspection (REAC)
- Quality Control Inspections
- Special Inspections
- Other Inspections

8-II.C. Notices and Scheduling of Inspections

- Non-Emergency Entries
- Emergency Entries
- Scheduling Inspections/Unit Repairs
- Attendance at Inspections

8-II.D. Inspection Results

- Emergency Repairs
- Non-Emergency Repairs
- Tenant-Caused Damages
- Tenant Responsibilities

Part III: GUESTS

8-III.A. Guest Policy

Part IV: NO-SMOKING POLICY – Effective June 1, 2017

CHAPTER 9 REEXAMINATIONS

Part I: ANNUAL REEXAMINATION

9-I.A. Annual Reexaminations

9-I.B. Applying the Current SSA COLA at Next Annual and Interim Reexamination

9-I.C. Annual Reexamination and Choice of Rent

Part II: MANAGING THE ANNUAL REEXAMINATION PROCESS

9-II.A. Overview

9-II.B. Effective Date of Annual Reexamination – Reexamination Cycle

9-II.C. Reexamination Interviews

9-II.D. Effective Communication, Reasonable Accommodations, and LEP Requirements

9-II.E. Tracking the Reexamination Process

9-II.F. Conducting the Annual Reexaminations

9-II.G. Reexamination Effective Dates

9-II.H. Mandated Use of the Enterprise Income Verification (EIV)

9-II.I. Compliance with Community Service

9-II.J. Criminal Background/Sex Offender Check

9-II.K. Change in Household Size

Part III: INTERIM REEXAMINATIONS

9-III.A. Overview

9-III.B. Policies for Families to Report Changes to the Annual Adjusted Income or Household Composition

- 9-III.C. Changes in Family Size During an Interim
- 9-III.D. Calculating Income for New Admission and Interim Reexaminations
- 9-III.E. Use of HUD’s Enterprise Income Verification (EIV) System – For Interims
- 9-III.F. Processing Time Period for Interim Reexamination
- 9-III.G. Effective Date of Interim Changes
- 9-III.H. Change in Family Size During an Interim

Part IV: CHANGES IN FAMILY COMPOSITION / REMAINING FAMILY MEMBER & PRIOR DEBTS

- 9-IV.A. Changes in Family Compositions
- 9-IV.B. Remaining Family Member and Prior Debt
- 9-IV.C. Violence Against Women Act/Bifurcate A Lease – See Chapter 2, Part III

Part V: ZERO INCOME FAMILIES

Part VI: OVER-INCOME FAMILIES

- 9-VI.A. Over-Income Limitation – HUD Notice PIH-2023-03/Dated March 13, 2023
- 9-VI.B. PHA Over-Income Policy
- 9-VI.C. Over-Income Families Annual Reporting to HUD
- 9-VI.D. Interim Reexamination to Determine Public Housing Over-Income Status

Part VII: RECALCULATING TENANT RENT

- 9-VII.A. Overview
- 9-VII.B. Changes in Utility Allowance
- 9-VII.C. Notification of Rent Changes and Effective Date
- 9-VII.D. Discrepancies/Overpayment or Underpayment of Rent

CHAPTER 10 PETS AND ASSISTANCE ANIMALS

Part I: ASSISTANCE ANIMAL’ POLICIES

- 10-I.A. Overview
- 10-I.B. Approval of Assistance Animals
- 10-I.C. Care and Handling of Assistance Animals
- 10-I.D. Conditions and Restrictions on Assistance Animals
- 10-I.E. Service Animal Information
- 10-I.F. Other Assistance Animal Information

Part II: PET POLICY

- 10-II.A. Overview
- 10-II.B. Management Approval of Pets
- 10-II.C. Standards for Pets
- 10-II.D. Pet Rules

Part III: PET DEPOSITIS AND FEES

- 10-III.A. Overview
- 10-III.B. Pet Deposit
- 10-III.C. Non-Refundable Nominal Fee

Part IV: EXHIBITS

- EXHIBIT 10-1: Lease Agreement for Service Animal Policy/Agreement

EXHIBIT 10-2: Lease Agreement for Assistance Animal Policy/Agreement

EXHIBIT 10-3: Lease Agreement for Pet Policy/Agreement

CHAPTER 11 COMMUNITY SERVICE

Part I: COMMUNITY SERVICE

11-I.A. Overview

11-I.B. Requirements

11-I.C. Determination of Exemption Status and Compliance

11-I.D. Documentation and Verification

11-I.E. Noncompliance

Part II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. Overview

Part III: EXHIBITS

EXHIBIT 11-1: Community Service and Self-Sufficiency Policy

EXHIBIT 11-2: Definition of Person with Disabilities Under Social Security Acts and Section
1416 For Purpose of Exemption from Community Service

CHAPTER 12 TRANSFER POLICY

Part I: TRANSFER POLICY

12-I.A. Transfer List and Order of Priorities

12-I.B. Emergency Transfers

12-I.C. PHA-Initiated Transfers

12-I.D. Tenant-Initiated Transfers

12-I.E. Transfer Requests

12-I.F. Processing Requests

12-I.G. Unit Acceptance or Refusal

12-I.H. Costs of Transfer

12-I.I. Deconcentrating

12-I.J. Annual Reexamination Date for Transfers

12-I.K. Security Deposits

12-I.L. Lease Execution

CHAPTER 13 LEASE TERMINATIONS

Part I: TERMINATION BY TENANT

13-I.A. Tenant Chooses to Terminate the Lease

Part II: MANDATORY TERMINATION BY PHA

13-II.A. Overview

13-II.B. Failure to Provide Consent

13-II.C. Failure to Document Citizenship

13-II.D. Failure to Disclose and Document Social Security Numbers

13-II.E. Failure to Accept the PHA's Offer of a Lease Revision

- 13-II.F. Methamphetamine Conviction
- 13-II.G. State Registered Lifetime Sex Offender Status
- 13-II.H. Noncompliance with Community Service Requirements
- 13-II.I. Death of a Sole Family Member
- 13-II.J. Requirements for Over-Income Families
- 13-II.K. Fleeting to Avoid Prosecution

Part III: OTHER AUTHORIZED REASONS FOR TERMINATION

- 13-III.A. Overview
- 13-III.B. Mandatory Lease Provisions
- 13-III.C. Other Authorized Reasons for Termination
- 13-III.D. Other Serious or Repeated Violations of Material Terms of the Lease Mandatory Lease Provisions
- 13-III.E. Other Good Cause Reasons for Termination
- 13-III.F. Alternatives to Termination of Tenancy
- 13-III.G. Factors for Considering Termination of Tenancy
- 13-III.H. Missed Appointments and Deadlines

Part IV: TERMINATION NOTICE

- 13-IV.A. Overview
- 13-IV.B. Conducting Criminal Records Checks
- 13-IV.C. Disclosure of Criminal Records to Family
- 13-IV.D. Lease Termination Notice
- 13-IV.E. Eviction
- 13-IV.F. Notification to Post Office
- 13-IV.G. Record Keeping
- 13-IV.H. Reinstatement After Termination – For Wrongful Termination

CHAPTER 14 GRIEVANCE AND APPEALS

Part I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

- 14-I.A. Overview
- 14-I.B. Informal Hearing Process

Part II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

- 14-II.A. Hearing and Appeal Provisions for Noncitizens

Part III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

- 14-III.A. Requirements
- 14-III.B. Definitions
- 14-III.C. Applicability
- 14-III.D. Informal Settlement of Grievance
- 14-III.E. Procedures to Obtain Hearing
- 14-III.F. Selection of Hearing Officer
- 14-III.G. Remote Hearings
- 14-III.H. Procedures Governing the Hearing

14-III.I. Decision of the Hearing Officer

Part IV: EXHIBIT

Exhibit 14-1: Grievance Procedure Sample

CHAPTER 15 PROGRAM INTEGRITY

Part I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. Preventing Errors and Program Abuse

15-I.B. Detecting Errors and Program Abuse

15-I.C. Investigating Errors and Program Abuse

Part II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. Under or Overpayment

15-II.B. Family-Caused Errors and Program Abuse

15-II.C. PHA-Caused Errors and Program Abuse

15-II.D. De Minimis Errors

15-II.E. Criminal Prosecution

15-II.F. Fraud and Program Abuse Recoveries

CHAPTER 16 PROGRAM ADMINISTRATION

Part I: UTILITY ALLOWANCES

16-I.A. Establishment of Utility Allowances by PHAs

16-I.B. Categories for Establishment of Allowances

16-I.C. Standards for Allowances for Utilities

16-I.D. Surcharges for PHA-Furnished Utilities

16-I.E. Reviews and Revisions of Allowances

16-I.F. Individual Relief

16-I.G. Resident-Purchased Utilities

Part II: ESTABLISHING FLAT RENTS

16-II.A. Overview

16-II.B. Establish Flat Rent

Part III: REPAYMENT OF FAMILY DEBTS

16-III.A. Overview

16-III.B. PHA Repayment Policy

Part IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. Overview

16-IV.B. PHAS Indicators

16-IV.C. PHAS Scoring

Part V: RECORD KEEPING

16-V.A. Overview

16-V.B. Record Retention

16-V.C. Records Management

Part VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. Reporting Requirements

APPENDIX A: GLOSSARY OF ACRONYMS

APPENDIX B: HOTMA POLICIES ON HOLD

APPENDIX A: GLOSSARY OF ACRONYMS

HUD provides this information for informational purposes only. It is not an official, required, HUD document, but it is nice to have it in the ACOP for informational purposes.

ACC Annual Contributions Contract

ACOP Admissions and Continued Occupancy Policy ACS American Community Survey

ADA Americans with Disabilities Act of 1990

AMI Area Median Income

AMP Asset Management Project

ARRA American Recovery and Reinvestment Act

CDBG Community Development Block Grant (Program)

CFP Capital Fund Program

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)

CHOD Community Housing Development Organization

COCC Central Office Cost Center

COLA Cost of Living Adjustment

CPI Consumer Price Index (published monthly by the Department of Labor as an inflation indicator)

CSSR Community Service and Self-Sufficiency Requirement

EID Earned Income Disallowance

EIV Enterprise Income Verification

ELI Extremely Low-Income

ESGP Emergency Shelter Grants Programs

FDIC Federal Deposit Insurance Corporation

FHA Federal Housing Administration (HUD Office of Housing)

FHEO Fair Housing and Equal Opportunity (HUD Office of)

FICA Federal Insurance Contributions Act (established Social Security taxes)

FMR Fair Market Rent

FR Federal Register

FSS Family Self-Sufficiency (Program)

FY Fiscal Year

FYE Fiscal Year End GAO Government Accountability Office

GAAP Generally Accepted Accounting Principles

HA Housing Authority or Housing Agency

HCV Housing Choice Voucher

HERA **Housing and Economic Recovery Act of 2008**

HOME – Home Investment Partnership Program

HOPE VI Revitalization of Severely Distressed Public Housing Program

HOTMA Housing Opportunity Through Modernization Act of 2016

HQS Housing Quality Standards

HUD Department of Housing and Urban Development

HUDCLIPS HUD Client Information and Policy System

IMS Inventory Management System

IPA Independent Public Accountant

IRA Individual Retirement Account

IRS Internal Revenue Service

ITSPs Individual Training and Services Plans

JTPA Job Training Partnership Act

Kin-GAP Kinship Guardian Assistance Payments

LBP Lead-based paint

LEAs Law Enforcement Agencies

LEP Limited English proficiency

LIHTC Low-Income Housing Tax Credit

LPRs Lawful Permanent Residents

MTW Moving to Work

NAHRO National Association of Housing and Redevelopment Officials

NOFA Notice of funding availability

OGC HUD's Office of General Counsel

OIG HUD's Office of Inspector General

OMB Office of Management and Budget

PASS Plan to Achieve Self-Support

PFS Performance Funding System

PHA Public Housing Agency

PHADA Public Housing Authorities Directors Associations

PAHRA Pennsylvania Association of Housing and Redevelopment Agencies

PHAS Public Housing Assessment System

PIC PIH Information Center

PIH Public and Indian Housing (HUD Office of)

QC Quality control

QHWRA Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD Rental Assistance Demonstration Program

REAC (HUD) Real Estate Assessment Center

RFP Request for proposals

RIGI Regional Inspector General for Investigation

ROSS Resident Opportunity and Supportive Services

SAVE Systematic Alien Verification for Entitlements

SBWL Site-based waiting list

SSA Social Security Administration

SSI Supplemental Security Income

SSN Social Security Number

SNAP Supplemental Nutritional Assistance Program

SWICAs State Wage Information Collection Agencies

TANF Temporary Assistance for Needy Families

TSAP Tenant Selection and Assignment Plan

TTP Total Tenant Payment

UA Utility Allowance

UFAS Uniform Federal Accessibility Standards

UIV Upfront Income Verification

UPCS Uniform Physical Condition Standards

USCIS U.S. Citizenship and Immigration Services

URP Utility Reimbursement Payment

VAWA Violence Against Women Act VCA Voluntary Compliance Agreement

APPENDIX B: HOTMA POLICIES ON HOLD

In accordance with HUD Notice PIH 2024-08 - Attachments, dated December 7, 2024, this ACOP APPENDIX B lists the following HOTMA changes that are on hold and will be incorporated later:

- Attachment A: Asset Limitation – Eligibility restriction on net family assets.
- Attachment B: Calculating Income –
 - 1) New Admission and Interim Reexaminations.
 - 2) Annual Reexamination
- Attachment C: Deductions and Expenses
- Attachment F: Income
- Attachment H: Inflationary Adjustment
- Attachment I: Interim Reexamination
- Attachment J: Verification

All provisions of HOTMA listed are currently on hold since they are dependent on HIP implementation. This means the PHA must not implement certain provisions of HOTMA yet, including:

- All asset provisions, including the asset limitation
- All adjusted income provisions, except for the definition of health and medical care expenses
- Inflationary adjustments (although you may use the HUD-determined passbook rate)
- The new verification hierarch, which allows for EIV + Self-Certification
- Annuals using the previous 12-months period income
- Interim re-exam requirements
- Non-interim reexam transactions

These changes are red highlighted in this ACOP Rev. 2025. Once HUD provides the PHAs with a new HOTMA compliance date, BHA will red-highlight and inform all public housing tenants and board of commissioners of the date at which the HOTMA policies noted above will become effective. According to the PIH HOTMA Implementation FAQs for PHAs updated September 13, 2024, PHAs may create an appendix to an Administrative Plan or Admission and Continued Occupancy Policies (ACOP) that contain the HOTMA policies that will be incorporated later.

All HOTMA provisions not listed above are implemented in the ACOP as follows according to firm deadlines:

- The PHA has already stopped enrolling public housing families in the EID as of December 31, 2023.
- The PHA has already transitioned to the new Form HUD-9886-A as of January 1, 2024.

- The PHA has already applied HOTMA 102/104 income exclusion listed in 24 CFR 5.609 (b), including new requirements for student financial assistance for income examinations July 1, 2025.
- The PHA has applied provisions related to De Minimis Errors as of July 1, 2025.
- The PHA has applied HOTMA 102/104 definitions listed at 24 CFR 5.403 and 5.603 for all transactions effective as of July 1, 2025, including:
 - Earned Income
 - Unearned Income
 - Family
 - Day Laborer
 - Independent Contractor
 - Dependent
 - Foster Child and Foster Adults
 - Health and Medical Care Expenses
 - Minor
- The PHA shall stop using the EIV Income Report during interim exams, as of July 1, 2025
- The PHA has accepted third-party verification within 120 days of the date received by the PHA, rather than 60 days, as of July 1, 2025.
- The PHA has accepted a statement dated within the appropriate benefit year for fixed income sources like Social Security.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The PHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is 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 an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations, and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with an 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 PHA, its jurisdiction, its programs, and its mission and intent.

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

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

PART I:
THE PUBLIC HOUSING AUTHORITY (PHA)

1-I.A. OVERVIEW

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

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

Public housing is funded by the federal government and administered by the **Bethlehem Housing Authority** for the jurisdiction of Bethlehem, Pennsylvania.

PHAs are governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, 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 PHA conducts business and ensures that those policies are followed by PHA 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 PHA are taken through written resolutions, adopted by the board and entered into the official records of the PHA.

The principal staff member of the PHA is the executive director (ED), who is selected and hired by the board.

The ED oversees the day-to-day operations of the PHA 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. In some PHAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. PHA MISSION

The purpose of a 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.

PHA Policy

Tag line: A Pathway to Empowerment

Vision: to be a housing provider known for integrity, innovation and empowerment in our community.

Mission: our agency provides quality affordable housing while developing innovative communities and empowerment opportunities for all.

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

As a public service agency, the PHA is committed to providing excellent service to all public housing applicants, residents, and the public. To provide superior service, the PHA 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 PHA'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 PHA's support systems and commitment to our employees and their development.

The PHA 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 with 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 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 determined to be eligible for the program, the PHA makes an offer of a housing unit. If the applicant accepts the offer, the PHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in 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.

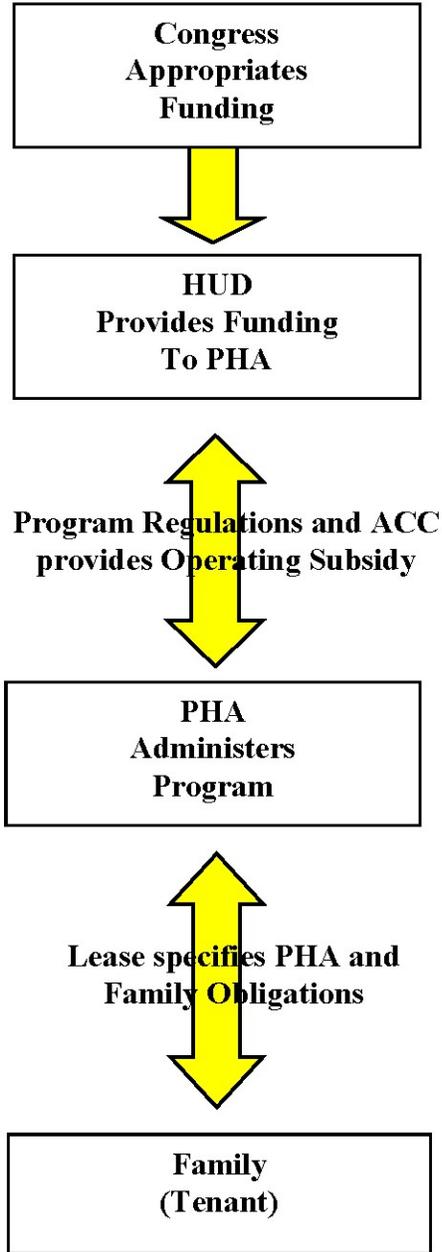
1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, the PHA must enter an Annual Contributions Contract (ACC) with HUD. The PHA also enters a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the PHA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – play an important role.

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 does 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:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities.
- Establish local policies and procedures for operating the program.
- Accept applications from interested applicant families and determine whether they are income eligible for the program.
- Maintain waiting list and select families for admission.
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner.
- Make unit offers 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
- Perform regular examinations of family income and composition in accordance with HUD requirements.
- 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 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 and PHA house rules, as applicable.
- 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 the 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 committing fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to the PHA promptly

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 35: Lead-Based Paint
- 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.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the PHA's written policy. At a minimum, the ACOP plan should cover PHA policies on these subjects:

- 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 admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of 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).

New Approach to Policy Development

HUD has developed an approach to monitoring PHAs that emphasizes the importance of consistency in operation and decision-making. The ACOP supports that goal by clearly setting forth the PHA's operating policies.

The primary focus of HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. Referring to and following the ACOP is essential to maintaining consistency in applying PHA policy.

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

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

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

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

1-III.C. UPDATING AND REVISING THE POLICY

The PHA 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 PHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

PHA Policy

The PHA will review and update the ACOP as 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 PHAs to affirmatively further civil rights and fair housing in all Federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policies and processes. The responsibility to further nondiscrimination pertains to all areas of PHA's Public Housing operations.

This chapter describes HUD regulations and PHA policies related to these topics in five parts:

Part I: Nondiscrimination: This part discusses...

- A. Applicable Fair Housing and Civil Rights Requirement
- B. Providing Information for Family
- C. Discrimination Complaints

Part II: Limited English Proficiency (LEP): This part discusses...

- A. Improving Access to Services for LEP Persons
- B. Outreach and Marketing

Part III: Violence Against Women Act Protection (VAWA): This part discusses...

- A. VAWA
 - A-1 Definition as Used in the VAWA
 - A-2 VAWA Self-Petitioners
 - A-3 Prohibition to the Victim Against Domestic Violence, Dating Violence, Sexual Assault, Stalking
 - A-4 Prohibition Against Termination of Assistance Related to Victim of Domestic Violence, Dating Violence, Sexual Assault, Stalking
 - A-5 PHA Confidentiality Requirement – VAWA
 - A-6 Notification to Applicants and Tenants Regarding Protection Under VAWA
 - A-7 Victim Documentation
 - A-8 Time Frame for Submitting Documentations
 - A-9 Perpetrator Documentation
 - A-10 Termination Tenancy of a Domestic Violence Offender
 - A-11 Response to Conflicting Certification
 - A-12 Emergency Transfer Under VAWA
 - A-13 Lease Bifurcation – Remedies Available to VAWA Victims
 - A-14 VAWA Record Retention
 - A-15 VAWA Reasonable Accommodation
 - A-16 VAWA Complaint Process

Part IV: Reasonable Accommodations: This part discusses...

- A. Overview
- B. Legal Authority
- C. Application of the Reasonable Accommodation Policy
- D. Policies Related to Persons with Disabilities
- E. Persons with Disabilities Does Not Include...
- F. Definitions of Reasonable Accommodation
- G. Definitions of Disability
- H. Request for Reasonable Accommodation
- I. Types of Reasonable Accommodation
- J. Verification of Reasonable Accommodation Request
- K. Processing Reasonable Accommodation
- L. Occupancy of Accessible Units
- M. Offers of Accessible Units of New Applicants
- N. Transfers as Reasonable Accommodation
- O. Service or Assistive Animal Reasonable Accommodation
- P. Program Accessibility – Hearing or Vision Impaired
- Q. Physical Accessibility
- R. Approval/Denial of Requested Accommodation
- S. Right to Appeal/Grievance Process
- T. Denial or Termination of Assistance
- U. Privacy

Part V: Exhibits:

- 2-1 Form HUD-5380 Notice of Occupancy Rights Under the VAWA – Housing Rights of Victim
- 2-2 Form HUD-5382 Certification of Domestic Violence...
- 2-3 Form HUD-5381 Emergency Transfer Plan for Victims of Domestic Violence...
- 2-4 Form HUD-5383 Emergency Transfer Request for Victims of Domestic Violence...
- 2-5 Detailed Definitions Related to Disabilities

PART I:
NON-DISCRIMINATION

2.-I.A. NON-DISCRIMINATION

APPLICABLE FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS

Regulations

24 CFR §§ 5.105(a), 8.6, 982.53; 28 CFR §§ 35.160 and 36.303

Summary

While HOTMA did not revise existing Fair Housing or Civil Rights requirements, PHAs are reminded to follow all applicable nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a) and 24 CFR § 982.53, including but not limited to:

- the Fair Housing Act.
- Section 504 of the Rehabilitation Act of 1973.
- Title VI of the Civil Rights Act of 1964.
- the Age Discrimination Act.
- HUD's Equal Access Rule; and
- Title II of the Americans with Disabilities Act of 1990.

These requirements prohibit discrimination based on race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, disability, age, and marital status.

PHAs must also comply with Title III of the Americans with Disabilities Act of 1990, as applicable (see 28 CFR part 36). When an assisted household includes a person with disabilities, reasonable accommodation may be necessary.

A reasonable accommodation is a change, exception, or adjustment to rules, policies, practices, or services that may be necessary to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas, or to participate in or access programs and activities. Under Section 504, reasonable accommodation may also include a structural change to a unit, or to a public or common use area. In addition, the PHAs must provide effective communication to persons with disabilities, including those with vision, hearing, and other communication-related disabilities, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible Web sites; and other accessible electronic communications). See 24 CFR § 8.6.

PHAs must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). LEP guidance and LEP information are available here:

<https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidancetofederalfinancial-assistance-recipients-regarding-title-vi-prohibition-against>. In addition, PHA must comply with the Violence Against Women Act (VAWA), HUD's implementing VAWA regulation at 24 CFR part 5 – subpart L, and applicable program regulations.

PHA treats all applicants and tenants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing based on race, color, religion, sex, national origin, age, familial status, and/or disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status.

PHA will comply with all applicable 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 (ADA) 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 2022 (VAWA).
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012; and
- When more than one civil rights law applies to a situation, the laws will be read and applied together; and any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

PHA will not discriminate based on gender identity, marital status or sexual orientation. PHA will not use any of the family characteristics or background described above to:

- Deny any family the opportunity to apply for housing, nor deny 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 family 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; or
- 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.

2-I.B. PROVIDING INFORMATION TO FAMILIES

PHA takes steps to ensure that families are fully aware of all applicable civil rights laws. As part of the Public Housing orientation process, PHA provides information to Public Housing families about civil rights requirements.

2-I.C. DISCRIMINATION COMPLAINTS

Applicants or tenants who believe that they have been subject to unlawful discrimination may notify PHA orally or in writing. PHA will attempt to remedy discrimination complaints made against PHA. The PHA will keep a record of all complaints, investigations, notices, and corrective actions.

PHA 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). The PHA will post in conspicuous and accessible location in the lobbies the HUD – 928-1 Fair Housing Poster – Equal Housing Opportunity. This HUD poster references how to file a complaint with FHEO. The PIH will follow Notice PIH 2014-20.

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

Notice PIH 2014-20 requires an articulate complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that the PHA provide equal access regardless of marital status, gender, identity, or sexual orientation under Equal Access Rule. Complainant may notify the PHA either orally or in writing.

Within ten (10) business days of receiving the complaint, the PHA will provide written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will attempt to remedy discrimination complaints made against the PHA and will investigate allegations of discrimination. Within ten (10) business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either proposed corrective action or an explanation of why corrective action is not warranted.

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

PART II:
LIMITED ENGLISH PROFICIENCY

2.II.A. IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

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 PH 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 based on national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

PHA will follow the requirements as set forth in its Limited English Proficiency policy ensuring that affirmative steps are taken to communicate with people who need services or information in a language other than English. These persons will be referred to as LEP.

Individuals may refer to PHA's Limited English Proficiency policy for specific information regarding interpreter services.

LEP is 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 ACOP, LEP persons are PH applicants and tenants, and parents and family members of applicants and tenants.

To determine the level of access needed by LEP persons, PHA 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 PH 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 PHA and costs.

Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on PHA.

The PHA has established its Language Access Plan (LAP) for Limited English Proficiency Persons to comply with the federal law Limited English Proficiency (LEP) compliance requirements for providing meaningful access to persons with LEP and to assist and train the Bethlehem Housing Authority's (BHA) staff in providing meaningful access to BHA's programs and activities to persons with LEP.

This LAP is intended to facilitate communication with the LEP communities and individuals we serve so that they may enjoy equal access to all the BHA's programs and opportunities. See HUD Notice PIH 2024-04 dated January 31, 2024, and BHA's LAP for LEP

2-II.B. OUTREACH & MARKETING

PHA will conduct affirmative marketing as needed so that the waiting list(s) includes a mix of applicants with races, ethnic backgrounds, ages and disabilities proportionate to the mix of those groups in the City of Bethlehem.

The Affirmative Marketing plan will take into consideration the number and distribution of vacant units, units that can be expected to become vacant because of move-outs, and characteristics of applicants on the waiting list. PHA will review these factors regularly to determine the need for and scope of marketing efforts.

Marketing efforts will include outreach programs for those least likely to apply. Marketing and informational materials will:

- Comply with Fair Housing Act requirements regarding wording, logo, size of type, etc.
- Describe the housing units, application process, type of Waiting List and preference structure accurately.
- Use clear and easy to understand terms and print media in languages other than English (as needed).
- Contact agencies that serve potentially qualified applicants least likely to apply (e.g., the disabled) to ensure that accessible/adaptable units are offered to applicants who need them.
- Make clear who is eligible: low-income individuals and families, working and non-working people, and people with both physical and mental disabilities; and
- Be clear about PHA's responsibility to provide reasonable accommodations to persons with disabilities.

PART III:
VIOLENCE AGAINST WOMEN ACT PROTECTION

2.III.A VIOLENCE AGAINST WOMEN ACT PROTECTIONS (VAWA)

PHA has revised its policy in accordance with the recently reauthorized Violence Against Women Act (“VAWA”) to provide safety and structure to victims of domestic violence, dating violence, sexual assault, and stalking.

VAWA was first established in 1994 and most recently reauthorized in 2022. VAWA is a federal law that protects individual who are survivors (victim) of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, sexual orientation, or gender identity. VAWA includes protection for survivors (victim) who are applying for or residing in covered housing programs such as Bethlehem Housing Authority’s Public Housing and Section 8 – HCV Programs.

Note: Gender-Based Violence is domestic Violence, dating violence, sexual assault, stalking, and human trafficking. Gender inclusive can include:

- Physical violence
- Sexual violence
- Emotional abuse
- Economic abuse
- Coercion

Human Trafficking survivors may have experienced VAWA violence/abuse while being trafficked. In addition, the trauma of VAWA violence and abuse can destabilize a person’s housing immediately, intermittently, and throughout their lives.

PIH-2017-08 (HA) dated May 19, 2017, covers who may receive VAWA protections, PHA documentation, notice requirement, victim confidentiality, emergency transfer, family break up, record keeping and reporting requirements, and lease bifurcation.

2-III.A-1 Definitions as Used in the Violence Against Women Act

The definitions applicable to the Violence Against Women Act (VAWA) are the following:

VAWA Violence/Abuse: One or more incidents of domestic violence, dating violence, sexual assault, or stalking.

Victim: Any victim of VAWA violence/abuse, regardless of actual or perceived sexual orientation, gender, identity, sex, or marital status.

Affiliated Person: The tenant’s spouse, parent, sibling, or child, or any individual, tenant, or lawful occupant living in the tenant’s household; or anyone form whom the tenant acts as parent/guardian.

The Covered Housing Program: Includes BHA's Public Housing Program and Housing Choice Vouchers (HCV) Program.

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, 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.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating Violence: Violence committed by a person:

1. Who is or has been in a social relationship of romantic or intimate nature with the victim; and
2. Where the existence of such a relationship is determined based on the following factors:
 - i) The length of the relationship.
 - ii) The type of relationship; and
 - iii) The frequency of interaction between the people involved in the relationship.

Note: The pattern of behavior of the offender can be the same as a domestic violence offender.

Sexual Assault: Any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a person to:

- 1) Fear for the person's individual safety or the safety of others; or
- 2) Suffer substantial emotional distress.

Actual and Imminent Threat: Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk,
- The nature and severity of the potential harm,
- The likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Bifurcate: To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and state or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy thereof, nonprofit or for-profit organizations.

2.III.A-2 VAWA Self-Petitioners

PHA will review non-citizen applicant or resident requests for admission or continued occupancy because of being a self-petitioner under the Violence against Women Reauthorization Act of 2013.

A VAWA Self-Petitioner is a non-citizen applicant or tenant who claims to be a victim of “battery or extreme cruelty”, which includes domestic violence, dating violence, sexual assault and stalking perpetrated by their spouse or parent, who is a citizen or lawful permanent resident.

A VAWA Self-Petitioner may indicate that they have satisfactory immigration status, though PHA has not yet verified that satisfactory immigration status. Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance.

A VAWA Self-Petitioner may submit an I-360 VAWA Self Petition, an I-130 Family Based VISA Petition or a USCIS Form 1-797 to demonstrate a claim of satisfactory immigration status.

When an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition or a USCIS Form 1-797 is submitted, PHA may not request any additional information from the VAWA Self-Petitioner other than what is required to complete the verification.

When a VAWA self-petitioner uses the Family Based VISA petition to satisfy immigration status, upon verification of the Family Based VISA petition, PHA will require the petitioner to submit evidence of battery or extreme cruelty.

Housing assistance and all other VAWA protections will be granted to the VAWA Self-Petitioner applicant or tenant throughout the verification process until a final determination of lawful permanent residency can be made.

If PHA later determines that the VAWA Self-Petitioner does not have eligible immigration status, PHA will notify the individual and take action to terminate assistance. PHA will also inform the individual of local agencies that provide domestic violence and immigration support services.

2.III.A-3 Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Applicants will not be denied housing just because they (or household members) are or were a victim or just because of problems they (or household members) had as a direct result of being or having been victim.

For example, if the victim has poor rental or credit history or criminal record, and that history or record is the direct result of the applicant being a victim of VAWA abuse/violence, that history or record cannot be used as a reason to deny applicant housing assistance covered by VAWA.

VAWA does not limit PHA’s authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

2.III.A-4 Prohibition Against Termination of Assistance Related to Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's family or any guest or other person under the tenant's control will not be the basis for termination of assistance, tenancy, or occupancy rights if the tenant, immediate member of the tenant's household, or affiliated individual is the victim or threatened victim of that domestic violence, dating violence, sexual assault or stalking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will 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.

Notwithstanding the foregoing, **PHA may exercise its authority to evict, remove, terminate** occupancy rights, or terminate assistance **to any individual** who is a tenant or lawful occupant and **who engages in criminal activity directly relating to domestic violence**, dating violence, sexual assault, or stalking against any household member, affiliated individual, or others **without** evicting, removing, terminating assistance to, or otherwise **penalizing the victim** of such violence who is also a tenant or lawful occupant.

PHA may exercise its discretion to bifurcate a Lease to evict, remove or terminate assistance to tenants or lawful occupants who perpetrate such violence against victims or affiliated individuals.

Further, PHA retains its authority to terminate the tenancy of any tenant if PHA concludes that there is an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

VAWA does not limit PHA's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

PHA may terminate assistance or evict a tenant for any violation of the Lease not premised on the kinds of violence described above, if the PHA refrains from subjecting a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than applied to other tenants facing Lease termination.

VAWA does not limit PHA's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

Notwithstanding the protections provided to tenants under VAWA, PHA will:

- Comply with court orders that address the rights of access to or control of property, including civil protection orders issued to protect victims of domestic violence, dating violence, sexual assault, and stalking; and
- Comply with court orders that address the distribution or possession of property among members of a household.

In the event PHA evicts, removes or terminates assistance to an individual by bifurcating the Lease, PHA will refrain from penalizing the victim of such criminal activity who is a tenant or lawful occupant.

PHA will also provide any remaining family members with at least **30 calendar days** from the date of bifurcation of the lease to establish eligibility for continued occupancy if the individual evicted because of the bifurcation of the Lease was the sole tenant eligible for housing assistance. If a tenant is unable to establish eligibility, PHA will provide tenants with a reasonable time, not to exceed 60 days, to find new housing.

This policy permits PHA to provide emergency transfers to victims of domestic violence, dating violence, sexual assault and stalking if the tenant expressly requests the transfer and the tenant reasonably believes that he/she is threatened with imminent harm from further violence if the tenant remains in the unit.

In the case of a tenant who is the victim of sexual assault, an emergency transfer may be provided if the individual reasonably believes there is a threat of imminent harm from further violence if they remain in their unit OR if the sexual assault occurred on the premises during the 90-day period preceding the request for a transfer.

Tenants receiving a VAWA-based Emergency Public Safety transfer may be referred to a domestic violence victim services organization if a safe unit is not immediately available.

PHA will maintain the confidentiality of the tenant's new location in the event the tenant receives an emergency transfer related to VAWA protections. PHA will not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA.

2.III.A-5 PHA Confidentiality Requirements – VAWA

PHA will keep confidential any information that the tenant submits in connection with VAWA protections, including keeping confidential the location of a new dwelling unit, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault or stalking against the tenant. All tenants' VAWA information will be securely and separately kept from tenants' files. Only the PHA's VAWA Coordinators will have access to the tenants' information.

Tenants' information will not be disclosed to anyone else or put in a database shared with anyone else, except in the following situations:

- The tenant gives the PHA written permission to share the information for a limited time.
- The PHA needs to use the information in an eviction proceeding or hearing; or
- Other applicable laws require the PHA to share the information.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, PHA will make reasonable attempts to provide notice to victims affected by the disclosure of information and will take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

At the time the applicant is denied, PHA may share the following:

- Non-personally identifying data in the aggregate regarding services to their tenants and non-personally identifying demographic information to comply with Federal or State reporting, evaluation, or data collection requirements.
- Court-generated information and law enforcement-generated information containing insecure, governmental registries for protection order enforcement purposes; and
- Law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.

2.III.A-6 Notification to Applicants & Tenants Regarding Protections Under VAWA

PHA will provide notice to applicants and tenants in assisted housing of protections provided under VAWA, in multiple languages, when necessary, at the following junctures:

- At the time the applicant is denied as an applicant.
- At the time an applicant is admitted as a tenant.
- At the time the tenant receives a termination notice.
- Prior to termination of tenancy; or
- At any time when requested.
- The PHA may provide these VAWA notifications at additional times

The PHA will provide the required Form HUD-5380 Notice of Occupancy Rights under VAWA, which is accompanied by Form HUD-5382 Certificate of Domestic Violence, Dating violence, Sexual assault, or Stalking.

PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking, may have an unfavorable history (i.e., a poor credit history, non-payment of rent as a Public Housing tenant, a record of previous damage to an apartment/Public Housing unit, a prior/current conviction) that would warrant denial or termination under PHA's policies.

Therefore, if PHA decides to deny admission to an applicant or to terminate assistance to a resident, PHA will include in its notice of denial or lease termination Form HUD-5380 accompanied by Form HUD 5382 noted above.

2.III.A-7 Victim Documentation

PHA will require that 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, sexual assault, or stalking provide documentation of such claim, including:

- Demonstrating the connection between abuse and the unfavorable history; and
 - Naming the perpetrator of the abuse if it is safe to provide the name and if it is known to the victim.
- The PHA will request documentation showing that applicants or public housing tenants (or household members) are a victim.

The PHA will make this request in writing and will give applicant or tenant at least **14 business days** (weekends and holidays do not count) to respond.

Applicants and Tenants are free to choose any one of the following:

1. A self-certification form (for example, Form-HUD 5382) that the PHA will provide along with Form-HUD 5380. Either the applicant or tenant can fill out or someone else can complete it for them.
2. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped the victim/survivor address incidents of VAWA violence/abuse. The professional must state “under penalty of perjury” that he/she/they believe that the incidents of VAWA violence/abuse are real and covered by VAWA. Both victim/survivor and the professional must sign the statement.
3. A police department, administrative, or court record (such as a protective order) that shows victim/survivor (or household members) were a victim of VAWA violence/abuse, OR
4. Any other statement or evidence provided by victim/survivor.

It is the applicant or tenant choice which documentation to provide, and the PHA will accept any one of the above as documentation.

The PHA’s staff is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the PHA receives conflicting information about VAWA violence/abuse.

If victim/survivor do not provide one of these types of documentation by the deadline, the PHA does not have to provide the VAWA protections requested.

If the documentation received by the PHA contains conflicting information about VAWA violence/abuse, the PHA shall require the victim/survivor to provide additional documentation from the list above.

The PHA shall give victim/survivor another 30 calendar days to do so.

2.III.A-8 Time Frame for Submitting Documentation

If an applicant for, or tenant of, the PHA housing represents to PHA that they are entitled to protection under VAWA, PHA will request in writing that the applicant submit a form of documentation as described above.

The tenant must submit the required certification and supporting documentation to PHA within fourteen (14) business days after PHA has requested the documentation from the applicant/tenant.

The 14-day deadline may be extended based on any reasonable accommodation request. If the individual does not provide the required certification and supporting documentation within fourteen (14) business days of PHA's request, or within the approved extension period, PHA may proceed with denial or termination of assistance. If PHA can demonstrate an actual and imminent threat to other tenants or those employed or providing service to the property if the tenant's tenancy is not terminated, PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

2.III.A-9 Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant/resident household, the applicant/head of household must provide additional documentation consisting of a signed statement requesting that the perpetrator be removed from the application or family. Perpetrator documentation must be submitted to PHA within the same timeframe as victim documentation.

2.III.A-10 Terminating Tenancy of a Domestic Violence Offender

This section does not provide protection for perpetrators of domestic violence, dating violence, sexual assault or stalking. PHA may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual, household members, or other individuals without terminating assistance to, or otherwise penalizing, the victim of such violence who is also a tenant or lawful occupant. This authority supersedes any local, State, or other Federal law to the contrary. However, if PHA chooses to exercise this authority, PHA will follow any procedures prescribed by HUD or by applicable local, State, or Federal law regarding termination of assistance.

When the actions of a tenant or other household member result in a decision to terminate the family's assistance and another household member claims that the actions involve criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking of household members or others, PHA will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe. If the certification and supporting documentation are submitted within the required timeframe, or any approved extension period, PHA will terminate the offender's assistance. If the victim does not provide the certification and supporting documentation, as required, PHA will deny relief for protection under VAWA and proceed with termination of the family's assistance.

If PHA can demonstrate an actual and imminent threat to other tenants or those employed or providing service to the property if the tenant's tenancy is not terminated, PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

2.III.A-11 Response to Conflicting Certification

In cases where PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, PHA may determine which is the true victim by requiring third-party documentation from each member as described in this ACOP. Third-party documentation to substantiate the occurrence of a VAWA related offense must be submitted within 30 calendar days. PHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim or to address the distribution or possession of property among the household.

2-III.A-12 Emergency Transfers Under VAWA

Victims of VAWA violence/abuse will have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse.

An emergency transfer cannot be guaranteed, but the victim can request an emergency transfer when:

1. Tenants (or household members) are victims of VAWA violence/abuse.
2. Tenants expressly request the emergency transfer; **AND**
3. **EITHER**
 - a. reasonably believe that there is a threat of imminent harm from further violence, including trauma, if tenants (or household member) stay in the same dwelling unit, **OR**
 - b. if tenants (or household members) are a victim of sexual assault, either tenant reasonably believe that there is a threat of imminent harm from further violence, including trauma, if the tenant (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and tenant request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

Tenant can request an emergency transfer even if tenant is not lease compliant, for example if the tenant owes rent. If tenants request an emergency transfer, tenants request, the information tenant provides to make the request, and the tenant's new unit's location shall be kept strictly confidential by the PHA.

The PHA's VAWA Coordinators shall maintain the VAWA emergency transfer plan and make it available to tenants upon request. Tenants will be directed to contact PHA's VAWA Coordinators. The VAWA emergency transfer plan includes information about what the PHA does to make sure the tenant's address and other relevant information are not disclosed to the tenant's perpetrator. PHA may allow a household to move to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes that he or she is imminently threatened by harm from further violence if he or she remains in the unit.

See Chapter 12 for PHA's TRANSFER POLICY as well as PHA's Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking which is attached as Exhibit 2:3 of this chapter

2-III.A-13 Lease Bifurcation - Remedies Available to VAWA Victims

Notwithstanding any Federal, State, or local law to the contrary, PHA may bifurcate (divide in two) a Lease, or remove a household member from a lease without regard to whether the perpetrator (household member) is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking of household members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effective in accordance with the procedures prescribed by Federal, State, or local law for lease termination.

Tenants who remain in the household after a lease bifurcation, who have not already established eligibility for housing assistance will be given at least 30 calendar days from the date of the bifurcation of the lease to establish eligibility for housing assistance or to find alternative housing.

For Mixed Families:

For mixed families where assistance is provided to the perpetrator and the victim is a member of the household who hasn't contended eligibility status, the victim will have a period of 30 calendar days from the date of bifurcation of the lease to:

- 1) Establish eligibility for the same covered housing program under which is evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease.
- 2) Establish eligibility under another covered housing program; or
- 3) Find alternative housing.

Assistance is limited to 30 days if the remaining family member has not submitted documentation evidencing a satisfactory immigration status or pending appeal of a verification determination of the family member's immigration status. The PHA will not initiate eviction procedures until 30 days after the lease bifurcation.

2-III.A-14 VAWA Record Retention

PHA will retain a record of all VAWA emergency transfer requests and outcomes for a period not less than three years. PHA will follow HUD reporting requirements regarding VAWA emergency transfer requests and outcomes.

2-III.A-15 VAWA Reasonable Accommodation

If the tenant has a disability, the PHA will provide reasonable accommodation to rules, policies, practices, or services that may be necessary to allow tenant to equally benefit from VAWA protections (for example, giving tenant more time to submit documents or assistance with filling out forms). The tenant may request reasonable accommodation at any time, even for the first time during an eviction.

If the PHA is denying a specific reasonable accommodation because it is not reasonable, the PHA shall first engage in the interactive process with the applicant or tenant to identify possible alternative

accommodations. To request reasonable accommodation, the applicant or tenant must contact the Bethlehem Housing Authority VAWA Coordinator. The PHA shall ensure effective communication with individuals with disabilities.

2-III.A-16 VAWA Compliant Process [Notice FHEO 2023-01]

A complainant may, no later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with the FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. The FHEO will investigate the complaint if it is timely and the FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, the FHEO may, but is not required to investigate the allegations under the additional authority and procedure described in FHEO 2023-01.

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

Applicants and tenants' families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing or may contact HUD's Office of Fair Housing and Equal Opportunity (FHEO) at 800-669-9777, or <https://www.hudgov/fairhousing/fileacomplaint>.

However, the PHA will attempt to remedy complaints made against the PHA and will investigate all allegations.

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

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

PART IV: REASONABLE ACCOMMODATIONS

2-IV.A. OVERVIEW

PHA is committed to ensuring that its policies do not deny individuals with disabilities the opportunity to participate in, or benefit from, nor otherwise discriminate against individuals with disabilities, based on a disability, in connection with the operations of PHA's programs, services and activities. Therefore, if an individual with a disability requires accommodation such as an accessible feature or modification to a PHA policy, PHA will provide such accommodation unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden. In such a case, PHA will make another accommodation that would not result in such a financial or administrative burden.

A reasonable accommodation is a change, modification, alteration or adaptation in applicable policy, procedure, practice, program, or facility that provides a qualified individual with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing) or activity.

PHA will post a copy of this Reasonable Accommodation Policy in each public housing development office, in each High-Rise building, and Tenant Selection Office. In addition, individuals may obtain a copy of the Reasonable Accommodation Policy, upon request.

2-IV.B. Legal Authority

PHA is subject to federal civil rights laws and regulations. This Reasonable Accommodation Policy is based on the following statutes or regulations and the respective implementation regulations for each Act:

- Section 504 of the Rehabilitation Act of 1973 (Section 504) See 29 U.S.C. §794; 24 C.F.R. Part 8.
- Title II of the Americans with Disabilities Act of 1990 (ADA) See 42 U.S.C. §§ 12101 et seq.
- The Fair Housing Act of 1968, as amended (Fair Housing Act) See 42 U.S.C. §§ 3601-20; 24 C.F.R. Part 100; and
- The Architectural Barriers Act of 1968, See 42 U.S.C. §§ 4151-4157.
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2-IV.C. Application of the Reasonable Accommodation Policy

The Reasonable Accommodation Policy applies to the following individuals with disabilities in PHA's PH program:

- Applicants of the PH program.
- Tenants of PH developments; and
- Participants in all other programs or activities receiving federal financial assistance that are conducted or sponsored by PHA, its agents or contractors including all non-housing facilities and common areas owned or operated by PHA.

2-IV.D. Policies Related to Persons with Disabilities

PHA strives to ensure that persons with disabilities have full access to PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the PH program.

PHA will ask all applicants and tenants if they require any type of accommodation, in writing, on the intake application, recertification documents, and notices of adverse action by PHA, by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

2-IV.E. Person with Disabilities Does Not Include

The definition of a person with disabilities does not include:

- Current illegal drug users.
- People whose alcohol use interferes with the rights of others; or
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with reasonable accommodation under the PH program.

The definition of disability determines whether an applicant or tenant 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 reasonable accommodation under federal civil rights and fair housing laws and regulations.

2-IV.F. Definition of Reasonable Accommodation

A person with a disability may require special accommodation to have equal access to the PH program. The types of reasonable accommodations PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for 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.

2-IV.G. Definition of Disability

The regulatory civil rights definition for persons with disabilities under Federal Civil Rights Laws (24 CFR Parts 8.3, 25.104, and 100.201) is as follows:

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.
- 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; 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. See Part V, Exhibit 2-5, Detail Definition of Disabilities.

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 elderly/disabled family deduction, the dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for the purpose of obtaining reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances. Many people will not qualify as a disabled person under the PH program, yet an accommodation is needed to provide equal opportunity.

2-IV.H. Request for Reasonable Accommodation

If an applicant or tenant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that PHA treat the information as a request for 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 family member with the disability full access to PHA's programs and services.

If the need for the accommodation is not readily apparent or known to PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, PHA will consider the accommodation any time the family indicates that accommodation is needed whether a formal written request is submitted.

2-IV.I. Types of Reasonable Accommodations

Examples of reasonable accommodation may include, but are not limited to:

- Making a unit, part of a unit, or public and common use areas accessible to the head of household or a family member with a disability who is on the lease.
- Permitting a household to have a service or assistive animal necessary to assist a family member with a disability.
- Allowing live-in aid to reside in an appropriately sized PHA unit.
- Transferring a household to a larger size unit to provide a separate bedroom for a person with a disability.
- Transferring a household to a unit on a lower level or a unit that is completely on one level.
- Making documents available in large types, computer disc or Braille.
- Providing qualified sign language interpreters for applicant or tenant meetings with PHA staff.
- Installing strobe type flashing lights and other equipment for a family member with hearing impairment.
- Permitting an outside agency or family member to assist an applicant or tenant in meeting screening criteria or meeting essential lease obligations; and

2-IV.J. Verification of Reasonable Accommodation Request

PHA may request documentation of the need for Reasonable Accommodation. PHA may verify a person's disability only to the extent necessary to ensure that individuals who have requested reasonable accommodation have a disability-based need for the requested accommodation.

However, PHA will not require individuals to disclose confidential medical records to verify a disability. In addition, PHA will not require specific details regarding the individual's disability. PHA will only request documentation to confirm the disability-related need(s) for the requested reasonable accommodation(s). PHA will not require the individual to disclose the specific disability, or the nature or extent of the individual's disability.

The following individuals/entities may provide verification of a family member's disability and the need for the requested accommodation(s):

- Physician.
- Licensed health professional.
- Professional representing a social service agency; or
- Disability agency or clinic.

2-IV.K. Processing Reasonable Accommodation Requests

PHA will provide the "Request for Reasonable Accommodation" form to applicants, tenants or individuals with disabilities who request a reasonable accommodation, including a medical release.

- Individuals may submit their reasonable accommodation request(s) in writing, orally, or by any other equally effective means of communication. However, PHA will ensure that all reasonable accommodation requests will be recorded in writing. If needed reasonable accommodation, PHA will assist the individual in completing the request form.
- Reasonable Accommodations will be made for applicants during the application process. All applications shall be taken in an accessible location. Applications will be made available in accessible formats. PHA will provide applicants with appropriate auxiliary aids and services, including qualified sign language interpreters and readers, upon request.
- PHA will provide tenants with the Reasonable Accommodation Request upon request according to the policy. PHA will provide the request form in an alternate form, upon request.
- Tenants seeking accommodation(s) may contact the asset management office within their housing development or high rise. In addition, tenants may also contact the Section 504/ADA Coordinator's office directly to request the accommodation(s).
- Upon receipt, the tenant's asset management, including private management companies operating on behalf of PHA, will respond to the tenant's request.

- The asset management will forward the request, including all supporting documentation, to PHA's Section 504/ADA Coordinator.
- If additional information or documentation is required, the Section 504/ADA Coordinator's office will promptly notify the tenant of the need for additional information or documentation.
- If PHA approves the accommodation request(s), the tenant will be notified.
- All recommendations that have been approved by the Section 504/ADA Coordinator will be forwarded to the appropriate department management and implemented by the appropriate PHA office. All requests for reasonable accommodation that are approved will promptly be implemented or the process of implementation will be started promptly.
- If the accommodation is denied, the tenant will be notified in writing of the reasons for denial. In addition, the notification of the denial will also provide the tenant with information regarding PHA's grievance procedures which provide a forum for the tenant to appeal the denial of the accommodation.
- If PHA determines that a request for reasonable accommodation presents an undue financial burden or would result in a fundamental alteration in the nature of the program or service offered, PHA will seek to provide the individual with an alternative opportunity to fully participate in the program or activity provided by PHA.

2-IV.L. Occupancy of Accessible Units

PHA shall take reasonable non-discriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of a particular unit. To this end, when an accessible unit becomes vacant, PHA shall:

1. First, offer the unit to a family with disabilities that reside at the development where the vacancy is located. The family must require the accessibility features of the vacant accessible unit and currently be living in a unit without those accessibility features.
2. If there is no current tenant in the same development who requires the accessibility features of the vacant accessible unit, PHA will offer the accessible unit to a current tenant with disabilities that reside in another development and requires the accessibility features of the vacant.
3. If there is no current tenant who requires the accessibility features of the vacant, accessible unit, PHA will offer the vacant, accessible unit to an eligible, qualified applicant with disabilities on PHA's waiting list who can benefit from the accessible features of the available, accessible unit.
4. If there is not an eligible qualified tenant or applicant with disabilities on the waiting list who wishes to reside in the available accessible unit, then PHA should offer the unit to a tenant/applicant on the waiting list who does not need the accessible features of the unit. However, PHA will require the tenant/applicant to execute a lease rider that requires the family to relocate, at PHA's expense, to a non-accessible unit within thirty (30) days of notice by PHA that there is an eligible applicant or existing tenant with disabilities who requires the accessibility features of the unit.

2-IV.M. Offers of Accessible Units to New Applicants

An applicant will receive two (2) offers of a unit with the requested features before the applicant is removed from the PH waiting list. If two units are rejected without good cause, PHA will follow the “good cause” refusal policy. Upon inspection of the unit offered, the applicant will be required to sign a Letter of Acceptance/Rejection of an Accessible Unit. PHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection and the reason for the rejection.

2-IV. N. Transfer as Reasonable Accommodation

The first qualified current tenant in sequence on the waiting list seeking reasonable accommodation will be offered a unit of the appropriate size with the special features required, in accordance with the Occupancy of Accessible Units subsection above. If more than one unit of the appropriate size and type is available, the first unit offered will be the first unit that is ready for occupancy.

Upon inspection of the unit offered, the tenant or applicant will be required to sign a Letter of Acceptance/Rejection of an Accessible Unit. PHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection and the reason for the rejection.

A current tenant will receive two (2) offers of a unit with the requested features. After a 2nd unit rejection without good cause the tenant will be removed from the applicable Waiting List. If there is verifiable good cause for the rejection, PHA will not remove the tenant from the applicable waiting list.

PHA shall not require a tenant with a disability to accept a transfer in lieu of providing reasonable accommodation. However, if a public housing tenant with a disability requests dwelling unit modifications that involve structural changes, including, but not limited to widening entrances, rooms, or hallways, and there is a vacant, comparable, appropriately sized Uniform Federal Accessibility Standards- (UFAS) compliant unit in that tenant’s development or an adjacent development, PHA may offer to transfer the tenant to the vacant unit in the tenant’s development or adjacent development in lieu of providing structural modifications. However, if that tenant rejects the offered, PHA shall make modifications to the tenant’s unit unless doing so would be structurally impracticable or would result in an undue financial and administrative burden.

If the tenant accepts the transfer, PHA shall pay the reasonable moving expenses to transfer a tenant with a disability to an accessible unit as an accommodation for the tenant’s disability.

2-IV.O. Service or Assistive Animals Reasonable Accommodation

PHA families with disabilities are permitted to have assistive animals, if such animals are necessary as reasonable accommodation for their disabilities. PHA tenants or potential tenants who need an assistive animal as reasonable accommodation must request the accommodation in accordance with the reasonable accommodation policy. Tenants must register their assistive animal with their management office before it is brought onto PHA’s property. The registration must include a certificate signed by a licensed veterinarian or a local authority empowered to inoculate animals (or designated agent of such an authority) stating that the animal has received all inoculations required by applicable local law.

There are no size or breed restrictions on assistive animals, however the tenant is still required to follow all the terms and conditions of the lease, including the ability to ensure the peaceful enjoyment of the development or high rise by others. See Chapter 10 policies related to service or assistive animals.

2-IV.P. Program Accessibility - Hearing or Vision Impairments

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

At the initial point of contact with each applicant, PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork. 2

2-IV.Q. Physical Accessibility

PHA complies with applicable requirements pertaining to physical accessibility, including the following:

- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Amendments Act of 1968, as amended

The design, construction, or alteration of PHA 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 PH program.

2-IV.R. Approval/Denial of Requested Accommodation

Per the Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for accommodation that a transfer or modification in housing or PHA policy can satisfy; and
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on PHA, or fundamentally alter the nature of PHA's Public Housing operations.

Requested accommodation will not be approved if one of the following occurs as a result:

- A violation of state and/or federal law.
- A fundamental alteration in PHA PH program.
- An undue financial and administrative burden on PHA.
- A structurally infeasible alteration; or
- An alteration requiring the removal or alteration of a load-bearing structural member.

Requests for accommodation must be assessed on a case-by-case basis, considering factors such as the cost of the requested accommodation, PHA's financial resources at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodation that would effectively meet the family's disability-related needs.

Before deciding whether to approve the request, PHA may engage in an interactive process with the family. PHA may enter discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that PHA may verify the need for the requested accommodation.

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

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

If PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, PHA 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.

2-IV.S. Right to Appeal/Grievance Process

Public housing program applicants or tenants may file a complaint in accordance with PHA's tenant grievance policy following a formal determination by PHA's Section 504/ADA Coordinator denying reasonable accommodation. Persons with disabilities may also request reasonable accommodation to participate in the PHA tenant grievance process and PHA will consider such accommodation.

2-IV.T. Denial or Termination of Assistance

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

When applicants with disabilities are denied assistance, the notice of denial must inform them of PHA's tenant grievance policy and their right to request a hearing. [24 CFR 960.208 (a)]

When a tenant's lease is terminated, the notice of termination must inform them of their rights to request a hearing in accordance with the PHA's grievance process tenant grievance policy and their right to request hearing and reasonable accommodation. [24 CFR 966.4(1)(3)(ii)]

When reviewing reasonable accommodation requests, the PHA 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 reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR 966.7].

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

If reasonable accommodation allows the family to meet the requirements, PHA will make the accommodation so long as the accommodation follows all applicable PH statutes and regulations.

2-IV.U. PRIVACY

- Information that is obtained directly from applicants/tenants or from those persons authorized by the applicant/tenant will be used or disclosed only for purposes relating directly to the administration of the Public Housing program. All information considered "private data on individuals" under the Pennsylvania Government Data Practices Act will be handled in compliance with that law.
- All applicants/tenants are required to complete and sign the HUD Authorization for Release of Information or other approved document, which incorporates the Federal Privacy Act Statement and delineates the terms and conditions for release of family information by HUD and/or PHA. PHA's policy regarding the release of information is in accordance with State and local laws that may restrict the release of family information.
- Information documenting the need for reasonable accommodation will be kept in a separate folder and marked "confidential". The personal information in this folder must not be released except on an "as needed" basis in cases where accommodation is under consideration. Any information received that contains an individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of a person's disability will be destroyed or returned to the family member. It will not be kept in a separate folder. All requests for access and related reviews of accommodation requests will be received and determined by the PHA staff person assigned to review and make determinations on reasonable accommodations or by the PH program designee.
- PHA's practices and procedures are designed to safeguard the privacy of applicants and program tenants. All applicant and tenant files will be stored in a secure location only accessible by authorized staff.
- PHA staff will not discuss family information contained in files 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.

PART V: EXHIBITS

EXHIBIT 2-1: Form HUD-5380 NOTICE OF OCCUPANCY RIGHTS UNDER THE VAWA - HOUSING RIGHTS FOR VICTIMS

NOTICE OF OCCUPANCY RIGHTS UNDER
VIOLENCE AGAINST WOMEN ACT
HUD-5380: Housing Rights for Victims

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Expires 1/31/2028

Bethlehem Housing Authority

Public Housing Program

Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

When should I receive this form? A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you are admitted as a tenant, when you receive an eviction or termination notice and prior to termination of tenancy, or when you are denied as an applicant, or at any time when requested. A covered housing provider may provide these forms at additional times.

What is the Violence Against Women Act (“VAWA”)? This notice describes protections that may apply to you as an applicant or a tenant under a housing program covered by a federal law called the Violence Against Women Act (“VAWA”). VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault or stalking. VAWA protections must be in leases and other program documents, as applicable. VAWA protections may be raised at any time. You do not need to know the type or name of the program you are participating in or applying to seek VAWA protection.

What if I require this information in a language other than English? To read this information in Spanish or another language, please contact Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

What do the words in this notice mean?

- **VAWA violence/abuse means** one or more incidents of domestic violence, dating violence, sexual assault, or stalking.
- **Victim means** any victim of *VAWA violence/abuse*, regardless of actual or perceived sexual orientation, gender identity, sex, or marital status.
- **Affiliated person** means the tenant’s spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant’s household; or anyone for whom the tenant acts as parent/guardian.
- **Covered housing program¹ includes the following HUD programs:**
 - Public Housing
 - Tenant-based vouchers (TBV, also known as Housing Choice Vouchers or HCV) and Project-based Vouchers (PBV) Section 8 programs
 - Section 8 Project-Based Rental Assistance (PBRA)

¹ For information about non-HUD covered housing programs under VAWA, see Interagency Statement on the Violence Against Women Act’s Housing Provisions at <https://www.hud.gov/sites/dfiles/PA/documents/InteragencyVAWAHousingStmnt092024.pdf>.

- Section 8 Moderate Rehabilitation Single Room Occupancy
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Section 221(d)(3)/(d)(5) Multifamily Rental Housing
- Section 236 Multifamily Rental Housing
- Housing Opportunities for Persons With AIDS (HOPWA) program
- HOME Investment Partnerships (HOME) program
- The Housing Trust Fund
- Emergency Solutions Grants (ESG) program
- Continuum of Care program
- Rural Housing Stability Assistance program

Covered housing provider means the individual or entity under a covered housing program that is responsible for providing or overseeing the VAWA protection in a specific situation. The covered housing provider may be a public housing agency, project sponsor, housing owner, mortgagor, housing manager, State or local government, public agency, or a nonprofit or for-profit organization as the lessor.

What if I am an applicant under a program covered by VAWA? You can't be denied housing, housing assistance, or homeless assistance covered by VAWA just because you (or a household member) are or were a victim or just because of problems you (or a household member) had as a direct result of being or having been a victim. **For example**, if you have a poor rental or credit history or a criminal record, and that history or record is the direct result of you being a victim of VAWA abuse/violence, that history or record cannot be used as a reason to deny you housing or homeless assistance covered by VAWA.

What if I am a tenant under a program covered by VAWA? You cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because you (or a household member) are or were a victim of VAWA violence/abuse. You also cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because of problems that you (or a household member) have as a direct result of being or having been a victim. For example, if you are a victim of VAWA abuse/violence that directly results in repeated noise complaints and damage to the property, neither noise complaints nor property damage can be used as a reason for evicting you from housing covered by VAWA. You also cannot be evicted or removed from housing, housing assistance, or homeless assistance covered by VAWA because of someone else's criminal actions that are directly related to VAWA abuse/violence against you, a household member, or another affiliated person.

How can tenants request an emergency transfer? Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse.

An emergency transfer cannot be guaranteed, but you can request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
 - a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit, **OR**
 - b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request.

To request an emergency transfer or to read BHA's VAWA emergency transfer plan, contact the **Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353**. The VAWA emergency transfer plan

includes information about what the covered housing provider does to make sure your address and other relevant information are not disclosed to your perpetrator.

Can the perpetrator be evicted or removed from my lease? Depending on your specific situation, your covered housing provider may be able to divide the lease to evict just the perpetrator. This is called “lease bifurcation.”

What happens if the lease bifurcation ends up removing the perpetrator who was the only tenant who qualified for the housing or assistance? In this situation, the covered housing provider must provide you and other remaining household members an opportunity to establish eligibility or to find other housing.

If you cannot or don’t want to establish eligibility, then the covered housing provider must give you a reasonable time to move or establish eligibility for another covered housing program. This amount of time varies, depending on the covered housing program involved.

The table below shows the reasonable time provided under each covered housing program with HUD. Timeframes for covered housing programs operated by other agencies are determined by those agencies.

Covered Housing Program(s)	Reasonable Time for Remaining Household Members to Continue to Receive Assistance, Establish Eligibility, or Move.
HOME and Housing Trust Fund, Continuum of Care Program (except for permanent supportive housing), ESG program, Section 221(d)(3) Program, Section 221(d)(5) Program, Rural Housing Stability Assistance Program	Because these programs do not provide housing or assistance based on just one person’s status or characteristics, the remaining tenant(s), or family member(s) in the CoC program, can keep receiving assistance or living in the assisted housing as applicable.
Permanent supportive housing funded by the Continuum of Care Program	The remaining household members can receive rental assistance until expiration of the lease that is in effect when the qualifying member is evicted.
Housing Choice Voucher, Project-based Voucher, and Public Housing programs (for Special Purpose Vouchers (e.g., HUD-VASH, FUP, FYI, etc.), see program specific guidance)	<p>If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.</p> <p>For HUD-VASH, if the veteran is removed, the remaining family member(s) can keep receiving assistance or living in the assisted housing as applicable. If the veteran was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days to establish program eligibility or find alternative housing.</p>
Section 202/811 PRAC and SPRAC	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or until the lease expires, whichever is first, to establish program eligibility or find alternative housing.
Section 202/8	<p>The remaining household members must be given 90 calendar days from the date of the lease bifurcation or when the lease expires, whichever is first, to establish program eligibility or find alternative housing.</p> <p>If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.</p>
Section 236 (including RAP); Project-based Section 8 and Mod Rehab/SRO	The remaining household members must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
HOPWA	The remaining household member(s) must be given no less than 90 calendar days, and not more than one year, from the date of the lease bifurcation to establish program eligibility or find alternative housing. The date is set by the HOPWA Grantee or Project Sponsor.

Are there any reasons that I can be evicted or lose assistance? VAWA does not prevent you from being evicted or losing assistance for a lease violation, program violation, or violation of other requirements that are not due to the VAWA violence/abuse committed against you or an affiliated person. However, a covered housing provider cannot be stricter with you than with other tenants, just because you or an affiliated person experienced VAWA abuse/violence. VAWA also will not prevent eviction, termination, or removal if other tenants or housing staff are shown to be in immediate, physical danger that could lead to serious bodily harm or death if you are not evicted or removed from assistance. But only if no other action can be taken to reduce or eliminate the threat should a covered housing provider evict you or end your assistance, if the VAWA abuse/violence happens to you or an affiliated person.

A covered housing provider must provide a copy of the Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

What do I need to document that I am a victim of VAWA abuse/violence? If you ask for VAWA protection, the covered housing provider may request documentation showing that you (or a household member) are a victim. BUT the covered housing provider must make this request in writing and must give you at least 14 business days (weekends and holidays do not count) to respond, and you are free to choose any one of the following:

1. **A self-certification form (for example, Form-HUD 5382)**, which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you.
2. **A statement from a victim/survivor service provider, attorney, mental health professional or medical professional** who has helped you address incidents of VAWA violence/abuse. The professional must state “under penalty of perjury” that he/she/they believe that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement.
3. **A police department, administrative, or court record** (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse, **OR**
4. **If allowed by your covered housing provider, any other statement or evidence provided by you.**

It is your choice which documentation to provide, and the covered housing provider must accept any one of the above as documentation. The covered housing provider is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the covered housing provider receives conflicting information about VAWA violence/abuse.

If you do not provide one of these types of documentation by the deadline, the covered housing provider does not have to provide the VAWA protections you requested. If the documentation received by the covered housing provider contains conflicting information about the VAWA violence/abuse, the covered housing provider may require you to provide additional documentation from the list above, but the covered housing provider must give you another 30 calendar days to do so.

Will my information be kept confidential? If you share information with a covered housing provider about why you need VAWA protection, the covered housing provider must keep the information you share confidential. This information should be securely and separately kept from your other tenant files. No one who works for your covered housing provider will have access to this information, unless there is a reason that specifically calls for them to access this information, your covered housing provider explicitly authorizes their access for that reason, and that authorization is consistent with applicable law. Your information **will not be disclosed** to anyone else or put in a database shared with anyone else, except in the following situations:

1. If you give the covered housing provider written permission to share the information for a limited time.
2. If the covered housing provider needs to use that information in an eviction proceeding or hearing; or
3. If other applicable law requires the covered housing provider to share the information.

How do other laws apply? VAWA does not limit the covered housing provider’s duty to honor court orders about access to or control of the property, or civil protection orders issued to protect a victim of VAWA abuse/violence. Additionally, VAWA does not limit the covered housing provider’s duty to comply with a court order with respect to the distribution or possession of property among household members during a family break up. The covered housing provider must follow all applicable fair housing and civil rights requirements.

Can I request reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodation to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider denying specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. To request reasonable accommodation, please contact the **Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353**. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Have your protections under VAWA been denied? If you believe that the covered housing provider has violated these rights, you may seek help by contacting the **HUD's Office of Fair Housing and Equal Opportunity (FHEO) at 800—669-9777**. You can also find additional information on filing VAWA complaints at <https://www.hud.gov/VAWA> and https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA. To file a VAWA complaint, visit <https://www.hud.gov/fairhousing/fileacomplaint>.

Need further help?

- For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>.
- To talk with a housing advocate, contact the **Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353 or North Penn Legal Services at 610-317-8757**.

The public reporting burden for this collection of information is estimated to range from 45 to 90 minutes per each covered housing provider's response, depending on the program. This includes time to print and distribute the form. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. This notice is required for covered housing programs under section 41411 of VAWA and 24 CFR 5.2003. Covered housing providers must give this notice to applicants and tenants to inform them of the VAWA protections as specified in section 41411(d)(2). This is a model notice, and no information is being collected. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 2-2: FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286

Exp. 1/31/2028

Bethlehem Housing Authority

Public Housing Program

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim".

This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files.

This information can only be accessed by an employee/agent of your covered housing provider if:

- (1) access is required for a specific reason,
- (2) your covered housing provider explicitly authorizes that person's access for that reason, **and**
- (3) authorization complies with applicable law.

This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider:

- (1) gets your written permission to do so for a limited time,
- (2) is required to do so as part of an eviction or termination hearing, **or**
- (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed

to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact Bethlehem Housing Coordinators at 610-865-8356 or 8353.

You can read translated VAWA forms at

https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodation according to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider denying specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit

<https://www.hud.gov/vawa>. To speak with a housing advocate, contact Bethlehem Housing Authority Coordinators at 610-865-8356 or 8353, or North Penn Legal Services at 610-317-8757.

Bethlehem Housing Authority

Public Housing Program

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM
OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

1. **Name(s) of victim(s):** _____

2. **Your name (if different from victim 's):** _____

3. **Name(s) of other members(s) of the household:** _____

4. **Name of the perpetrator (if known and can be safely disclosed):** _____

5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

Phone Number: _____

Safe to receive a voicemail: Yes No

E-mail Address: _____

Safe to receive an email: Yes No

Mailing Address: _____

Safe to receive mail from your housing provider: Yes No

Other Please List: _____

Anything else your housing provider should know to safely communicate with you?

Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, 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.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means violence committed by a person:

- (1) Who is or has been in a social relationship of 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: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear of the person's individual safety or the safety of others **or**
- (2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

Signature

Date

The Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 2-3 FORM HUD-5381

BHA'S EMERGENCY TRANSFER PLAN

**FOR VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

Bethlehem Housing Authority

Public Housing Program

EMERGENCY TRANSFER PLAN

**FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, AND STALKING**

Bethlehem Housing Authority (BHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act of 1994, as amended (“VAWA”), **BHA** allows any tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant’s current unit to another unit.

VAWA protections are not limited to women and are available regardless of age or actual or perceived sexual orientation, gender identity, sex, or marital status. Victims cannot be discriminated against based on any protected characteristic, including race, color, national origin, religion, sex (including perceived or actual sexual orientation or gender identity), familial status, disability, or age. HUD-assisted and HUD-insured housing must also be made available to all otherwise eligible individuals and families regardless of age, or actual or perceived gender identity, sexual orientation, or marital status.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protection, how an emergency transfer may occur, and guidance regarding safety and security. The plan is based on Federal regulations at 24 Code of Federal Regulations (CFR) part 5, subpart L, related program regulations, and the model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD). HUD is the Federal agency that oversees that **Bethlehem Housing Authority’s Public Housing Program** is in compliance with VAWA.

Definitions

- **External emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process to reside in the new unit.
- **Internal emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
- **Safe unit** refers to a unit that the victim of VAWA violence/abuse believes is safe.
- **VAWA violence/abuse** means an incident or incidents of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR 5.2003 and “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking” (Form HUD-5382).

Eligibility for Emergency Transfers

A tenant may seek an emergency transfer to another unit if they or their household member is a victim of VAWA violence/abuse, as outlined in the “Notice of Occupancy Rights Under the Violence Against Women Act,” Form HUD-5380.

This emergency transfer plan provides further information on emergency transfers, and **BHA** must provide a copy if requested. **BHA** may ask for submission of a written request for an emergency transfer, such as form HUD-5383, to certify eligibility for the emergency transfer.

A Tenant is eligible for an emergency transfer if:

1. The tenant (or their household member) is a victim of VAWA violence/abuse.
2. The tenant expressly requests the emergency transfer, **AND**
3. **EITHER**
 - a. The tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they or (their household member) stays in the same dwelling unit, **OR**
 - b. The tenant (or their household member) is a victim of sexual assault, either the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or their household member) were to stay in the unit, or the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

BHA, in response to an emergency transfer request, will not evaluate whether the tenant is in good standing as part of the assessment or provision of an emergency transfer. Whether or not a tenant is in good standing does not impact on their ability to request an emergency transfer under VAWA.

BHA’s Emergency Transfer Policies

For the PHA to remain compliant with its lease obligations, any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

Therefore, PHAs must establish an emergency transfer policy in the event there is damage to a family’s unit or building, or the site poses an immediate hazard to the life, health, and/or safety threat and the PHA cannot make the necessary repairs within 24 hours. The PHA must offer standard alternative accommodation, if available, when necessary, repairs cannot be made within a reasonable time (24 CFR § 966.4(h)).

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR § 966.4(h)].

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is eligible for an emergency transfer, as provided in HUD’s regulations at 24 CFR § part 5, subpart L. PHAs are required to have a Violence Against Women Act (VAWA) Emergency Transfer Plan with guidelines for this type of emergency transfer.

BHA will comply with HUD’s regulations and **BHA**’s VAWA Emergency Transfer Plan.

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 fire damage, a gas leak, no heat during the winter, no water, toxic contamination, serious water leaks, or to protect the family from imminent danger by criminal activity.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. To request an emergency transfer under VAWA, the resident is required to submit an emergency transfer request form (HUD-5383) to expedite the transfer process. Transfer requests under VAWA will be processed in accordance with the BHA's VAWA Emergency Transfer Plan.

To request an emergency transfer under VAWA, the resident is required to submit an emergency transfer request form (HUD-5383). Transfer requests under VAWA will be processed in accordance with BHA's VAWA Emergency Transfer Plan.

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

VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. **BHA** may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify **Bethlehem Housing Authority Coordinators at 610-865-8356 or 8353.**

If **BHA** does not already have documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking, **BHA** may ask for this documentation in accordance with 24 CFR 5.2007. Unless **BHA** receives documentation that contains conflicting information, as described in 24 CFR 5.2007(b)(2), **BHA** cannot require third-party documentation to determine status as a VAWA victim for emergency transfer eligibility.

BHA will provide reasonable accommodations to this policy for individuals with disabilities.

IF BHA REQUIRES A WRITTEN REQUEST FOR AN EMERGENCY TRANSFER

The tenant's written request for an emergency transfer must include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or household member) stays in the same dwelling unit, OR
2. In the case of a tenant (or household member) who is a victim of sexual assault, **either** a statement that the tenant reasonably believes there is a threat of imminent harm from further violence or trauma if the tenant (or household member) stays in the same dwelling unit), **or** a statement that the sexual

assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when the assault occurred.

Form-HUD-5383 may be used for making a written request for an emergency transfer.

The PHA will request documentation showing that applicants or public housing tenants (or household members) are a victim. The PHA will make this request in writing and will give applicant or tenant at least **14 business days** (weekends and holidays do not count) to respond.

Applicants and Tenants are free to choose any one of the following:

1. A self-certification form (for example, Form-HUD 5382) that the PHA will provide along with Form-HUD 5380. Either the applicant or tenant can fill out or someone else can complete it for them.
2. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped the victim/survivor address incidents of VAWA violence/abuse. The professional must state “under penalty of perjury” that he/she/they believe that the incidents of VAWA violence/abuse are real and covered by VAWA. Both victim/survivor and the professional must sign the statement.
3. A police department, administrative, or court record (such as a protective order) that shows victim/survivor (or household members) were a victim of VAWA violence/abuse, OR
4. Any other statement or evidence provided by victim/survivor.

It is the tenant choice which documentation to provide, and BHA will accept any one of the above as documentation.

BHA’s staff is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless BHA receives conflicting information about VAWA violence/abuse.

If victim/survivor do not provide one of these types of documentation by the deadline, BHA does not have to provide the VAWA protections requested. If the documentation received by BHA contains conflicting information about VAWA violence/abuse, BHA shall require the victim/survivor to provide additional documentation from the list above. BHA will give victim/survivor another 30 calendar days to do so.

Time Frame for Submitting Documentation

The tenant must submit the required certification and supporting documentation to BHA within fourteen (14) business days after BHA has requested the documentation from the applicant/tenant.

The 14-day deadline may be extended based on any reasonable accommodation request. If the individual does not provide the required certification and supporting documentation within fourteen (14) business days of BHA’s request, or within the approved extension period, BHA may proceed with denial or termination of assistance.

If BHA can demonstrate an actual and imminent threat to other tenants or those employed or providing service to the property if the tenant’s tenancy is not terminated, BHA will bypass the standard process and proceed with the immediate termination of the family’s assistance.

Perpetrator Documentation

If the perpetrator of the abuse is a member of the resident household, the head of the household must provide additional documentation consisting of a signed statement requesting that the perpetrator be removed from the lease/household. The perpetrator documentation must be submitted to BHA within the same timeframe as victim documentation.

Terminating Tenancy of a Domestic Violence Offender

BHA will terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual, household members, or other individuals without terminating assistance to, or otherwise penalizing, the victim of such violence who is also a tenant or lawful occupant. This authority supersedes any local, State, or other Federal law to the contrary. However, if BHA chooses to exercise this authority, BHA will follow any procedures prescribed by HUD or by applicable local, State, or Federal law regarding termination of assistance.

When the actions of a tenant or other household member result in a decision to terminate the family's assistance and another household member claims that the actions involve criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking of household members or others, BHA will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe.

If the certification and supporting documentation are submitted within the required timeframe, or any approved extension period, BHA will terminate the offender's assistance.

If the victim does not provide the certification and supporting documentation, as required, BHA will deny relief for protection under VAWA and proceed with termination of the family's assistance.

If BHA can demonstrate an actual and imminent threat to other tenants or those employed or providing service to the property if the tenant's tenancy is not terminated, BHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Response to Conflicting Certification

In cases where BHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, BHA may determine which is the true victim by requiring third-party documentation from each member as described.

Third-party documentation to substantiate the occurrence of a VAWA related offense must be submitted within 30 calendar days.

BHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim or to address the distribution or possession of property among the household.

Priority for Transfers

Tenants who qualify for an emergency transfer under VAWA will be given the following priority over other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

Transfers are prioritized according to standards established by the lease and PHA's ACOP.

Emergency transfers due to physical hazards are of the highest priority because of their immediate nature and the fact that PHAs could potentially be in violation of their responsibilities under the lease for failure to correct such hazards.

PHAs establish multiple categories for transfers to make priorities clear and manageable.

Transfers will be processed in the following order:

1. Emergency Transfers

- Hazardous Maintenance Conditions.
- VAWA emergencies for tenants who are victims of domestic violence/abuse. See Chapter 2, Part III and Part V: Exhibits 2-3 Emergency Transfer Plan and 2-4 Emergency Transfer Request. **Note:** PHA shall provide tenants with either Housing Choice Voucher (HCV) if the funding is available, or a transfer within the public housing program.
- Verified Threat (verified threat of harm of criminal activity). The PHA may allow for a transfer to alleviate a threat assessed by a law enforcement professional; or protect members of the household from criminal activity at the property or in the neighborhood.

2. High-Priority Transfers

- Reasonable Accommodation (verified medical conditions)
- Transfers to Make an Accessible Unit Available
- Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

4. Underhoused/Split Family: (by one or more bedrooms)

5. Severely Over-housed (by more than 2-bedroom)

6. Over-housed

7. Other tenant-requested transfer (e.g. Employment Location)

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

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

Transfers will take precedence over waiting list admissions.

Emergency Transfer Procedures

If the transfer is necessary because of maintenance conditions or other emergency conditions, and an appropriate unit is not immediately available, the BHA will provide temporary accommodation for the tenant by arranging for temporary lodging at a hotel or similar location.

If the conditions that require the transfer cannot be repaired, or the conditions cannot be repaired within 24 hours or a reasonable amount of time, BHA will transfer the residents to the first available and appropriate unit after the temporary relocation.

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

BHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. BHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.

BHA defines immediately available as a vacant unit, that is ready for move-in within a reasonable period, not to exceed 20 days.

If an internal transfer to a safe unit is not immediately available, the BHA will assist the residents in seeking external emergency transfer either within or outside the PHA's programs.

Confidentiality

If a tenant inquiry about or requests any VAWA protections or represents that they or a household member are a victim of VAWA violence/abuse entitled to VAWA protections, **BHA** will keep any information they provide concerning the VAWA violence/abuse, their request for an emergency transfer, and their or a household member's status as a victim strictly confidential. **This information will be securely and separately kept from tenant files.**

All the information provided by or on behalf of the tenant to support an emergency transfer request, including information on the Certification Form (HUD-5382) and the Emergency Transfer Request Form (HUD-5383) (collectively referred to as "Confidential Information") may only be accessed by **BHA** employees or contractors if explicitly authorized by **BHA** for reasons that specifically call for those individuals to have access to that information under applicable Federal, State, or local law.

Confidential information will not be entered into any shared database or disclosed to any other entity or individual, except if:

- Written permission by the victim in a time-limited release.
- Required for use in an eviction proceeding or hearing regarding termination of assistance; or
- Otherwise required by applicable law.

In addition, HUD's VAWA regulations require emergency transfer plans to provide strict confidentiality measures to ensure that the location of the victim's dwelling unit is never disclosed to a person who committed or threatened to commit the VAWA violence/abuse.

Emergency Transfer Procedure

BHA cannot specify how long it will take from the time a transfer request is approved until the tenant can be placed in a new, safe unit. **BHA** will, however, act as quickly as possible to assist a tenant who qualifies for an emergency transfer.

If BHA identifies an available unit and the tenant believes that unit would not be safe, the tenant may request a transfer to a different unit.

BHA may be unable to transfer a tenant and their household to a particular unit if the tenant and their household have not established or cannot establish eligibility for that unit.

If BHA does not have any safe and available units for which the tenant is eligible, BHA will assist the tenant in identifying other covered housing providers who may have safe and available units to which the tenant could move. At the tenant's request, BHA will also assist the tenant in contacting the local organizations helping victims of VAWA violence/abuses that are attached to this plan.

Making the Emergency Transfer Plan Available

BHA will make its Public Housing Emergency Transfer Plan available publicly on BHA's website and upon request by any public housing tenant, or organization, who may be assisting a public housing tenant or be inquiring about the plan.

To effectively communicate with public housing tenants with disabilities and make materials available in alternative accessible formats, as well as providing reasonable accommodation, BHA will provide aids and services when needed and upon request to communicate effectively with tenants who may have communication disabilities.

To decide what aid or service is needed to communicate effectively, BHA may consider the nature, length, and context of communication as well as the person's normal method(s) of communication.

BHA will consider all reasonable accommodation requests and follow its reasonable accommodation policies and the America with Disabilities Act (ADA).

In addition, BHA will have VAWA forms available in the language outlined in the BHA Language Access Plan to meet limited English proficiency (LEP) obligations.

Safety and Security of Tenants

When BHA receives any inquiry or request regarding an emergency transfer, BHA will encourage the person making the inquiry or request to take all reasonable precautions to be safe, including seeking guidance and assistance from a victim service provider. However, tenants are not required to receive guidance or assistance from a victim service provider. For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>. **Organization victims may contact:**

- Turning Point of the Lehigh Valley 24-hour hotline: 610-437-3369, for Bethlehem 610-797-0530, for Allentown 797-0530.
- Crime Victims Council of the Lehigh Valley 24-hour Hotline: 610-437-6610
- Northampton County Victim/Witness Service: 610-829-6645 or 6655
- North Penn Legal Service – Bethlehem: 610-317-8757
- National Domestic Violence Hotline: 1-800-799-7233 or 1-800-787-3224 (TTY) for persons with hearing impairments
- Rape, Abuse, & Incest National Network (RAINN) in PA: Call 1-888-772-722

EXHIBIT 2-4 FORM HUD 5383

EMERGENCY TRANSFER REQUEST FOR VICTIMS OF DOMESTIC VIOLENCE

Bethlehem Housing Authority

Public Housing Program

**EMERGENCY TRANSFER REQUEST FOR VICTIMS OF
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act (“VAWA”). **This form refers to domestic violence, dating violence, sexual assault, or stalking as “VAWA violence/abuse.”**

VAWA protects individuals and families regardless of a victim’s age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You may request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer, AND
3. EITHER
 - a. You reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; or
 - b. If you (or a household member) are a victim of sexual assault, either you reasonably believe there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA. However, submitting this form does not necessarily mean that you will receive an emergency transfer. **See your covered housing provider’s VAWA Emergency Transfer Plan** for more information about VAWA emergency transfers and see “Notice of Occupancy Rights Under the Violence Against Women Act,” **Form HUD-5380**, for additional housing rights you may be entitled to.

Am I required to submit any documentation to my covered housing provider? Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (**Form HUD-5382**), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See “Notice of Occupancy Rights Under the Violence Against Women Act,” **Form HUD-5380**, for more information.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an

employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I need this information in a language other than English? To read this in Spanish or another language, please contact **Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353.**

You can read translated VAWA forms at

https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodation according to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodation. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>. To speak with a housing advocate, contact **Bethlehem Housing Authority VAWA Coordinator at 610-865-8356 or 610-865-8353 or North Penn Legal Services at 610-317-8757**

Bethlehem Housing Authority

Public Housing Program

**EMERGENCY TRANSFER REQUEST FOR VICTIMS OF
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**TO BE COMPLETED BY OR ON BEHALF OF THE TENANT REQUESTING AN EMERGENCY
TRANSFER**

1. **Name(s) of victim(s):** _____

2. **Your name (if different from victim's):** _____

3. **Name(s) of other household member(s):** _____

4. **Name(s) of other household member(s) who would transfer with the victim:** _____

5. **Name of the perpetrator (if known and can be safely disclosed):** _____

6. **Address of location from which the victim seeks to transfer:** _____

7. **Current Unit Size (# of bedrooms):** _____

8. **What is the safest and most secure way to contact you? (You may choose more than one.)**

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

Phone Number: _____

Safe to receive a voicemail: Yes No

E-mail Address: _____

Safe to receive an email: Yes No

Mailing Address: _____

Safe to receive mail from your housing provider: Yes No

Other Please List: _____

9. **Anything else your housing provider should know to safely communicate with you?**

10. What features are requested for a safe unit? You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live. **(Please note that the ability to provide an emergency transfer is based on unit availability.)**

- New Neighborhood New Building
- First Floor unit Second Floor unit (and above)
- Near an Exit Well-lit hallways/walkways
- 24-hour Security Accessible unit
- Other: _____
- _____

11. To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit **any one** of the following types of documentation:

- Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, which asks your name and the perpetrator’s name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The professional must state “under penalty of perjury” that he/she/they believe in the occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement.
- A police department, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse, OR
- If permitted by your covered housing provider, a statement or other evidence provided by you.

Certification of Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Signature: _____ **Date:** _____

The public reporting burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Covered housing providers in programs covered by VAWA may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 2-5 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 support, 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]

An individual with handicaps means any person who has 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; Genitourinary; 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 mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) Having a record of such an impairment means having 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 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 because of the attitudes of others toward such impairment.

c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

Chapter 3

ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE

OVERVIEW

24 CFR § 960.201 2 24 CFR § 960.208(a) 24 CFR § 5.105(a); 24 CFR part 1; 24 CFR part 8; 24 CFR part 100; 24 CFR part 146; 28 CFR part 35

This chapter outlines the U.S. Department of Housing and Urban Development's (HUD) eligibility requirements for participation in the Public Housing (PH) program and provides guidance to Public Housing Agencies (PHAs) in establishing additional criteria for admission. The Department advises PHAs to objectively and consistently apply these criteria when evaluating the eligibility of families who apply for assistance. An applicant must meet all eligibility requirements to receive housing assistance.¹ Applicants applying for assistance may be asked to explain their circumstances, furnish additional information, and are entitled to receive an explanation in cases where the PHA determines the family is ineligible for admission.² As with all areas of program administration, PHAs must comply with all federal, state, and local laws, including but not limited to nondiscrimination laws, such as laws governing fair housing and equal opportunity in housing when determining eligibility.³

This chapter contains nine parts:

Part I: Eligibility Factor and Requirement: This part contains three eligibility factors for admission, screening and other requirements for admission.

Part II: Family Eligibility Requirements: This contains definition of "family."

Part III: Income Limit/Asset Limitation/Income Targeting: This part describes income limits, asset limitation for admission, and income targeting requirements.

Part IV: Citizenship Status: This part discusses citizenship status and documentation of citizenship or immigration status, extensions, verification of eligible immigration status, CIS appeals process, prorating assistance for mixed family, delay, denial, reduction or termination requirements, and compliance with verification requirements.

Part V: Disclosure of Social Security Numbers: The part discusses SSN disclosure requirements for applicant families, SSN requirements for new household members added to participant household, new household members under age 6 who do not have an SSN, acceptable documentation, and the PHA discretion policies.

Part VI: Tenant Screening: This part discusses tenant screening, criminal background screening, consent of background screening, information for drug abuse treatment facilities, records retention and confidentiality, and denial of assistance for criminal activity.

Part VII: EIV System Searches at Admission: This part discusses EIV system searches at admission, existing tenant search and avoiding duplicate subsidy, form HUD-52675 Debts Owed to PHAs and Terminations, and 120-day review of income report.

Part VIII: Notification to Family: This part discusses emergency contact, notification requirements, and effective communication.

Part IX: Denial of Assistance: This part discusses denial of assistance, timing of denial, notice and right to dispute denial, non-discrimination, consideration of circumstances.

PART I: ELIGIBILITY FACTORS AND REQUIREMENTS AT ADMISSION

PHAs must consider three factors when determining a family's eligibility for admission into the PH program. In addition to the three eligibility factors, the PHA must conduct certain screenings which may result in denial of assistance. Each factor is summarized below and discussed further in a corresponding section.

Before denying assistance for any criteria, the PHA should review Section 10, Denial of Assistance, to ensure compliance with all nondiscrimination and fair housing requirements, including for example, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Violence Against Women Act (VAWA) requirements.

3-I.A. Eligibility Factors for Admission

Family eligibility requirements:

24 CFR § 5.403

The household must meet HUD's definition of a "family," which is provided in Part II: Family Eligibility Requirements. ⁴

Income limits:

24 CFR § 960.202(a); <https://www.huduser.gov/portal/datasets/il.html>

The household's annual income must not exceed the applicable income limit as established by HUD in the jurisdiction where the family leases a unit.⁵ This requirement applies at the time of admission and is reevaluated at the time of reexamination; Part III - Income Limits, further describes this requirement.

Citizenship or Eligible Immigration status:

24 CFR § 5.508(a)-(d)

Each applicant in the household must have citizenship or eligible immigration status with supporting documentation.⁶ Citizenship status only needs to be verified at the time of admission for each household member. Information on how to verify citizenship and eligible immigration status and calculate assistance for families that include ineligible noncitizens is provided in Part IV - Citizenship Status.

3-I.B. Screening and Other Requirements at Admission

Disclosure of Social Security Numbers and compliance with verification requirements:

24 CFR §§ 5.230; 5.233 24 CFR § 5.216(b)

To verify the family's eligibility, the household must sign consent forms and provide requested verification materials.⁷ The applicant must also disclose and document the social security numbers (SSN) of all family members (with a few exceptions) as described in Section 6,

Disclosure of Social Security Numbers. PHAs only need to verify SSNs once per household member.⁸

Background screening:

24 CFR 960.203 24 CFR 5.856

PIH 2012-28, State Registered Lifetime Sex Offenders in Federally Assisted Housing, page 3, FN 1, page 4

See 24 CFR § 5.903 24 CFR § 5.903(b)

The PHA is responsible for screening family behavior and suitability for tenancy.⁹

Details on which types of activity must result in denial of assistance and what types of activity may result in denial of assistance, and the PHA's options for setting additional criteria are discussed in Section 7, Background Screening.

PHAs must perform background checks for each member to see if they are subject to the lifetime sex offender registry.¹⁰ However, these background checks may be achieved by searching the Dru Sjodin National Sex Offender Database, available at <http://www.nsopw.gov>.¹¹

PHAs may obtain conviction records from Law Enforcement Agencies (LEAs) to screen for other criminal activity related to suitability for tenancy but are not required to do so.¹²

If PHAs choose to screen for admission using LEA conviction records, all adult household members must sign a criminal background consent form to authorize the PHA to conduct these background screenings.¹³

Enterprise Income Verification (EIV) system searches.

24 CFR § 5.233; Notice PIH 2018-18, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification System

PHAs must use HUD's EIV system to search for all household members using the Existing Tenant Search and all adult household members in the Search for Former Tenant.

All adult household members also must sign the form HUD-52675.¹⁴

The PHA may be required to deny assistance to household members already receiving assistance from another program or who owe an outstanding debt to another PHA. More information on the required searches and interpreting the results is provided in Part VII - EIV System Searches at Admission

PART II: FAMILY ELIGIBILITY REQUIREMENTS

3-II. A. DEFINITION OF FAMILY:

24 CFR § 5.403

24 CFR § 5.105(a)(2); Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity, 77 FR 5662, Feb. 3, 2012

24 CFR § 5.403; 24 CFR 5.105(a)(2), and the 2012 Equal Access Rule

(<https://www.federalregister.gov/documents/2012/02/03/2012-2343/equal-access-to-housing-in-hud-programs-regardless-of-sexual-orientation-or-gender-identity>).

Each applicant for assistance under the PH Program must, at a minimum meet the PHA's definition of "family." PHAs have discretion in defining what constitutes a family. However, the definition must not exclude any groups included under HUD's definition of family. ¹⁵

PHAs must ensure that its definition of "family" does not consider actual or perceived sexual orientation, gender identity, or marital status.¹⁶

PHAs must not make inquiries as to the sexual orientation or gender identity of applicants.

A family includes, but is not limited to, regardless of actual or perceived sexual orientation, gender identity, or marital status, the following:

- 1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person;
- 2) A group of persons residing together, and such group includes, but is not limited to:
 - a) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family).
 - b) An **elderly family**, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age. It may include two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 who live with one or more live-in aides.
 - c) A **near-elderly family**, which is defined as a family whose head, co-head, spouse, or sole member is at least 50 years of age but below the age of 62; or two or more persons, each of whom are between the ages of 50 and 62, living together; or one or more persons who are between the ages of 50 and 62 living with one or more live-in aides.
 - d) A **disabled family**, which means a family whose head, co-head, spouse, or sole member, is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

i) A “person with disabilities” means a person who:

(1) Has a disability as defined in 42 U.S.C. § 423(d)(1).

(2) 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 ability to live independently could be improved by more suitable housing conditions; or

(3) Has a developmental disability as defined in 42 U.S.C. § 15002(8) (formerly codified in 42 U.S.C. § 6001).

ii) Important considerations:

(1) The meaning of “a person with disabilities” does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the virus that causes AIDS.

(2) The meaning of “a person with disabilities” does not include a person whose disability is based solely on a dependency to any drug or alcohol (for eligibility purposes).

(3) A person who qualifies as a “person with disabilities” also qualifies as an individual with disabilities for purposes of protections under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act, including reasonable accommodation and program accessibility for persons with disabilities.

e) A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed because of a disaster declared or otherwise formally recognized under federal disaster relief laws.

f) A remaining member of a tenant family where other members of the family are no longer in the unit. ¹⁷

Definition of Family

Regulation: 24 CFR § 5.403

The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;

- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of “family” in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of “single persons.” Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

PHA Discretion: None.

PHA Policy

The PHA will not exclude any groups included under HUD’s definition of family. The PHA will ensure that its definition of “family” does not consider actual or perceived sexual orientation, gender identity, or marital status. PHA will not make inquiries as to the sexual orientation or gender identity of applicants. The PHA will follow all the above regulations when defining what constitutes a family.

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together.

Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

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 everyone’s income and other resources will be available to meet the needs of the family.

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

3-II.B. FAMILY BREAK-UP

§ 982.315 (a)(b)

(a)

(1) The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. The PHA administrative plan must state PHA policies on how to decide who remains in the program if the family breaks up.

(2) If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), the PHA must ensure that the victim retains assistance.

(b) The factors to be considered in making this decision under the PHA policy may include:

(1) Whether the assistance should remain with family members remaining in the original assisted unit.

(2) The interest of minor children or of ill, elderly, or disabled family members.

(3) Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.

(4) Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.

(5) Other factors specified by the PHA.

(c) If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

PHA Policy

For Applicants:

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

For Public Housing Tenant:

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

PHA's Determination of Which Family Will Retain Their Place on the Waiting List or Continue in Occupancy:

If a court determines the disposition of property between members of an applicant or resident family, the PHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list or continue in occupancy.

In making its determination, the PHA will take into consideration the following factors:

- (1) the interest of any minor child, including custody arrangements.
- (2) the interest of any ill, elderly, or disabled family members.
- (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking including a family member who was forced to leave a public housing unit because of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP.
- (4) any possible risks to family members because of criminal activity, and
- (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family: See Chapter 9. Part III.B.

3-II.C. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of the household is responsible for ensuring that the family fulfills all its responsibilities under the program, alone or in conjunction with a co-head or spouse. A minor who is emancipated under state law may be designated as head of household in some states.

PHA Policy

The family may designate any qualified family member as the head of the household. The head of a household must have the legal capacity to sign a lease under state and local law.

3-II.D. SPOUSE, COHEAD, AND OTHER ADULT

The head of the household may have a spouse or cohead, but not both.

“Spouse” means the marriage partner of the head of household.

“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.

PHA Policy

The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners.

The state of Pennsylvania does not recognize "common law" marriages any longer, but this living situation was considered legal at one point. This law was abolished on January 2, 2005. Therefore, anyone that was entered into the "common law" marriage prior to this date, is still considered to be in a "common law" marriage and will be considered a spouse.

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

A minor married and who is emancipated under state law may be designated as a spouse.

Minor spouse means a spouse who is a minor, under 18 years of age. Even if a minor, a spouse does not qualify as a dependent, no minor deduction is permitted.

All income of a minor spouse is counted for rent calculation purposes.

In the case where the spouse is a minor, that person cannot sign as co-head. To legally sign documents, Pennsylvania law requires persons to be 18 years of age or older. The minor spouse cannot sign the lease, nor assume the duties of Co-head, until turning 18.

See chapter 6, Part II for more details on Household Characteristics. See Chapter 6 Part III for more details on temporarily and permanently absent family members, absent student, minor placement in foster care, absent head, spouse, or co-head, and adult, family member confined in a medical facility for medical reasons, absent due to incarcerations, joint custody of children, and caretaker/guardian for remaining child in the household.

3-II.E. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY - [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-II.F. PERSONS WITH DISABILITIES AND DISABLED FAMILY **[24 CFR 5.403, FR Notice 02/03/12]**

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 individuals with handicaps and persons with disabilities are provided in the chart below. These definitions are used for several purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

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

Disabled Family

A disabled family is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance 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 or acting under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part VI of this chapter and in Chapter 13.

See Chapter 2, Part V. Exhibit 2-5 for detailed definitions related to disabilities.

3-II.G. 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 person(s),
- (2) is not obligated for the support of the person(s), and
- (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as reasonable accommodation for a person with disabilities in accordance with 24 CFR 8. **A live-in aide is considered a household member but not a family member.** The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)].

Relatives may be approved as live-in aides if they meet all 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.

PHA Policy

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

The PHA will process all required criteria for **admission** as a live-in aide.

At each annual reexamination, the family will be required to review and sign a PHA format "Request for Continued Certification of Live-in Aide. Certification will indicate that the live-in aide (1) is 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 PHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The person has a history of drug-related criminal activity or violent criminal activity;
or
- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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

**PART III:
INCOME LIMIT/ASSET LIMITATION/INCOME TARGETING**

3-III.A. INCOME LIMIT

24 CFR § 960.201(a)

HUD establishes income limits by family size for the area in which each PHA is located. These income limits are used to determine the family's eligibility for the program and are published annually in a HUD Notice.

They are generally effective on the date of publication. The income limits are available via the HUD USER (<https://www.huduser.gov/portal/datasets/il.html>) website.

To be eligible for public housing, a family must have an annual income that is no more than the low-income limit for the jurisdiction, generally 80 percent of area median income.¹⁸

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 the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families.

3-III.B. ASSET LIMITATION FOR ADMISSION

Regulations 24 CFR §§ 5.100 (real property); 5.603; and 5.618

For Public Housing, PHAs must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation (see paragraph A.1 and A.2 below).

A.1 Asset Limitation

This section describes the asset limitation.

A family is out of compliance with the asset limitation if they have either of the following:

- **Net family assets that exceed \$100,000, as adjusted annually for inflation.**

Definition of net family assets:

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see Chapter 6 Part V)

HUD will adjust this amount annually in accordance with the Consumer Price Index–Urban Wage Earners and Clerical Workers (CPI–W). See Chapter 6 Exhibit 4 - Inflationary Adjustments, for more information on inflationary adjustments.

In determining whether the net family assets for a family exceed \$100,000 (as adjusted for inflation), a PHA may accept a declaration from the family that their net assets do not exceed \$50,000 (as adjusted for inflation), without needing to further verify that declaration.

For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets.

For more details in Assets see Chapter 6 Part V. Assets
See Chapter 7 – 7-2 Exhibit – Applicant Assets Statement of Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted by inflation).

• Real property that is suitable for occupancy.

Real property means “real property as provided under the State law in which the property is located.” AI

Families are out of compliance if they have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

However, there are several exemptions to the real property restriction, discussed below – (Exemptions to the Real Property Restriction in the Asset Limitation).

In determining whether the family owns real property that would make them out of compliance, a PHA may rely upon self-certification, both at the time of admission and at reexamination, from the family stating that they do not have any present ownership interest in any real property.

A PHA could use a form that requests certification of the family’s present ownership interest in the property and inquire about the family’s legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family.

If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction.

However, if the family owns real property, the PHA must seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Note: Ownership of real property is relevant to the asset limitation in two distinct ways:

1) if the family has an ownership interest in real property, that interest may cause the family's net family assets to exceed \$100,000 (adjusted for inflation), in which case the family is out of compliance; and

2) if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence, then the family is out of compliance.

There are several exemptions to the real property restriction at § 5.618(a)(1)(ii), discussed below, which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. However, those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

Exemptions to the Real Property Restriction in the Asset Limitation

The real property restriction does not apply to the following: 24

- Any property for which the family is receiving assistance under 24 CFR § 982.620 (i.e., a manufactured home owned by a family who receives assistance to lease the space or lot in which it is located). Likewise, any property for which the family is receiving assistance is under the Homeownership Option in 24 CFR Part 982. See 24 CFR § 5.618(a)(1)(ii)(A).
- Any property jointly owned by a family member and another individual who does not live with the family but who resides at the jointly owned property. See 24 CFR § 5.618(a)(1)(ii)(B).
- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR Part 5 (Subpart L). **For example**, if the victim is a minor, the real property limitation does not apply to any property owned by the victim's parent or guardian. When a family requests an exemption from the real property limitation on this basis, the PHA must accept self-certification and follow the confidentiality and documentation-request requirements established at 24 CFR § 5.2007. See 24 CFR § 5.618(a)(1)(ii)(C).
- Any property that the family is offering for sale. Documentary evidence of the sales process could include, for example, a contract with a real estate agent or a current real estate listing. See 24 CFR § 5.618(a)(1)(ii)(D).

A. Legal Right to Reside in Real Property

The real property restriction applies only when the family has the legal right to reside in the real property. Whether a family has the legal right to reside in a property may be dependent on state and local law. The family may own real property that legally they may not reside in. For example, the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

B. Effective Legal Authority to Sell the Real Property

The real property restriction applies only when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located. There may be multiple reasons why a family does not have such legal authority. For example, when families are contesting ownership of a property in court, or an individual is in divorce proceedings, they may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled. Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. For example, a divorce pleading, or complaint may demonstrate that there are actual divorce proceedings occurring. 25

C. Suitability of Real Property for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that the real property meets one of the following five conditions (24 CFR § 5.618(a)(2)):

- The property is not capable of meeting the disability-related needs of all members of the family (e.g., it does not meet physical accessibility requirements, family has disability-related need for additional bedrooms, family needs proximity to accessible transportation). Documentary requirements to establish disability-related needs must comply with applicable fair housing and civil rights requirements.
- The property is not sufficient for the size of the family. A PHA's occupancy standards may be used for such a determination.
- The property is geographically located so that it creates a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would place a hardship on the family, as determined by the PHA. Distance or commute time to school/work are illustrative, but not exhaustive, examples of geographic hardships). Through written policies, PHAs may set parameters on what constitutes such a hardship, but they must consider the specific circumstances of the family, including information provided by the family, in making a determination.

- The property is not safe to reside in because of its physical condition (e.g., the property’s physical condition poses a risk to the family’s health and safety and the condition of the property cannot be easily remedied). Unsafe property conditions could include external circumstances or environmental factors outside the control of the family. The property may be deemed not suitable for occupancy if the alterations that would be needed to make it safe to live in are cost prohibitive.
- The family does not have the legal right to reside on the property.

A.2 Compliance with Admission

At admission, ownership of net family assets that exceed \$100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. PHAs do not have the discretion to enforce or provide limited enforcement of the asset limitation at admission. See Chapter 6 Part V. for more details on Asset Limitation and Assets.

PHA Policy

At admission, the PHA will comply with the above HUD requirements.

For a family hardship due to a property being in a geographically location that creates a hardship for the family, the PHA will consider the distance or commuting time between the property and the family’s place of work or school that would place a hardship on the family and will consider the specific circumstances of the family and information provided by the family, to decide.

See Chapter 7 – 7-2 Exhibit – Applicant Asset Statement of Self-Certification of New Assets and Real Property.

3-III.C. INCOME TARGETING

24 CFR § 960.202(b)(2)

At least 40 percent of new admissions to public housing in the PHA fiscal year must be “extremely low-income” (ELI) families with annual incomes at or below 30 percent of the area median income. PHAs that manage both Public Housing and Section 8 voucher programs can reduce their public housing target of 40 percent of ELI admissions by exceeding the target of 75 percent of Section 8 admissions during the same PHA fiscal year, i.e., the excess of Section 8 admissions may be credited against the public housing targeting requirement.

The fiscal year credit for excess voucher program admissions must not exceed the lowest of:

- Ten (10) percent of public housing waiting list admissions during the PHA's fiscal year.
- Ten (10) percent of waiting list admissions to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or
- The number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. 19

PART IV: CITIZENSHIP STATUS

3-IV.A. CITIZENSHIP STATUS

24 CFR § 5.506(a) 24 CFR § 5.506(b)

See <https://www.acf.hhs.gov/otip/victim-assistance/certification>

See <https://www.acf.hhs.gov/otip/victim-assistance/child-eligibility-letters>

22 USC § 7105(b)(1)(A). Family members of individuals who are victims of a severe form of trafficking in persons that are derivative T nonimmigrants (T-2 through T-6 nonimmigrants) are immediately eligible for benefits and services to the same extent as refugees. They do not need a certificate or eligibility letter from HHS. 2

HUD Memorandum, Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980 (Dec. 15, 2016); HUD Notice PIH 2017-02 (HA) Violence Against Women Act (VAWA) Self Petitioner Verification Procedures

24 CFR § 5.522; 42 USC § 1436a(c)(2)(A)

42 USC § 1436a(c)(2)(A)

Eligibility for federal housing assistance, such as the PH program, is limited to U.S. citizens and noncitizens who have eligible immigration status. 20

Families in which all members are U.S. citizens or have eligible immigration status are eligible for housing assistance.²¹

Families in which at least one member is a U.S. citizen or has eligible immigration status may be eligible for partial, or pro-rated, assistance. A family in which some family members have eligible immigration status, and some do not contend eligible immigration status is referred to as a **mixed family**. Family members whose eligible immigration status is pending are considered ineligible for assistance until their immigration status is fully authorized by U.S. Citizenship and Immigration Services. Once these family members receive their immigration status, the family's financial assistance will be redetermined accordingly. Mixed families receive prorated assistance based on the percentage of family members who qualify for assistance.²²

An individual who is not a U.S. citizen or national who is a resident of the U.S. and has any of the following immigration statuses²³ is eligible for assistance:

- a non-citizen lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country (Lawful Permanent Residents (LPRs));
- a non-citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully

admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;

- a non-citizen who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8 (Refugees and asylees (if their asylum has not been terminated));
- a non-citizen who is lawfully present in the United States because of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8 (a noncitizen paroled into the U.S. for a period of at least one year);
- a non-citizen who is lawfully present in the United States because of the Attorney General's withholding deportation pursuant to section 1231(b)(3) of title 8 (A noncitizen granted withholding of removal under 8 U.S.C. 1231(b)(3));
- a non-citizen lawfully admitted for temporary or permanent residence under section 1255a of title 8.
- a non-citizen who is lawfully residing in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance; 24
- a non-citizen who is a human trafficking victim and certain family members 25 who:
 - (1) have a Certification Letter from the Department of Health and Human Services (including T-1 nonimmigrants and Continued Presence recipients 26),
 - (2) are noncitizen minors who have received a Child Eligibility Letter from the Department of Health and Human Services,²⁷ or
 - (3) are granted derivative T nonimmigrant status by USCIS (T-2 through T-6 nonimmigrant status),²⁸ or
- a non-citizen who is a VAWA self-petitioner under 8 U.S.C. § 1101(a)(51), 8 U.S.C. § 1641(c), 62 Fed. Reg. 61344, 61367 (Nov. 17, 1997). 29

Non-citizen students, even those with eligible immigration status, are not eligible to receive housing assistance. When a non-citizen student is accompanied by a non-citizen spouse and/or non-citizen minor child, those family members also are ineligible for assistance. However,

citizen spouses and the children of the citizen spouse and non-citizen student are eligible for assistance. ³⁰

Assistance would be prorated if a household includes a non-citizen student and citizen spouse and/or citizen children. A non-citizen student is a bona fide student who:

- Is pursuing a course of study in this country,
- Has a residence in another country outside of the United States that the person has no intention of abandoning; and
- Is admitted to this country temporarily, solely for the purpose of studying.³¹

3-IV.B. DOCUMENTATION OF CITIZENSHIP OR IMMIGRATION STATUS

24 CFR § 5.508(g)(1)

Each eligible family member (or the parent/guardian for family members under age 18) must sign a declaration of their status.³²

Eligible noncitizens also must provide supporting documentation as **shown below Chart: Non-Citizen Rule Summary of Documentation Requirements.**

Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible noncitizens.

Documentation must be submitted no later than the date of the eligibility determination.³³ Once documents have been submitted and verified for an individual, citizenship documentation for that individual will not need to be collected again. Household members who do not provide the required proof of citizenship or eligible immigration status will be considered ineligible noncitizens.

PHA Options: Additional Documentation of U.S. Citizenship

PHAs are permitted, but not required to, adopt policies requiring additional documentation to verify U.S. citizenship. If the PHAs' policy is to require verification of citizenship, the PHAs plan must clearly state this policy. The policy must be applied consistently to all applicants and in a nondiscriminatory manner.
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Chart: Non-Citizen Rule Summary of Documentation Requirements

Status	Documentation
<p>1) A citizen or national of the United States</p>	<p>Note: Expired documents are not acceptable form of verification</p> <p>DECLARATION: For each family member with this status, a declaration of citizenship signed under the penalty of perjury is required.</p> <p>For each adult household member over the age of 18, the declaration must be signed by the adult.</p> <p>For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.</p>
<p>2) A non-citizen claiming eligible immigration status who is 62 years of age or older per 24 CFR § 5.508(b)(2).</p>	<p>A Declaration AND: Proof of age</p>
<p>3) All other non-citizens claim eligible immigration status. Categories of eligible immigration status:</p> <p>a) a non-citizen lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.</p> <p>b) a non-citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;</p> <p>c) a non-citizen who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8.</p>	<p>DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under the penalty of perjury is required.</p> <p>Adults must sign their own declaration.</p> <p>AND: A verification form: For each adult, the adult must sign the form. For each child, an adult member of the family residing in the unit who is responsible for the child must sign the form.</p> <p>The verification form must state that evidence of eligible immigration status may be released by the PHA to HUD and the CIS without responsibility for the future use or transmission of the evidence by the recipient. The form must also notify the signer of the possible release of evidence of eligible immigration status by HUD. Such evidence shall only be released by HUD to the CIS for the purpose of establishing eligibility for financial assistance.</p> <p>AND: <u>CIS Primary Verification</u> of eligible immigration status must be conducted by the PHA through the CIS automated SAVE system.</p> <p>If this method fails to verify status, or, if the verification received indicates ineligible immigration status, the PHA must request <u>Secondary CIS Verification</u> within 10 days by sending to the local CIS Office photocopies of CIS documents receiving (front and back) attached to Form G-845S – Document Verification Request.</p>

<p>d) a non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;</p> <p>e) a non-citizen who is lawfully present in the United States as a result of the Attorney General’s withholding deportation pursuant to section 1231(b)(3) of title 8;</p> <p>f) a non-citizen lawfully admitted for temporary or permanent residence under section 1255a of title 8;</p> <p>g) a non-citizen who is lawfully residing in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance;</p> <p>h) a non-citizen who is a human trafficking victim and certain family members who:</p> <p>(1) have a Certification Letter from the Department of Health and Human Services (including T-1 nonimmigrants and Continued Presence recipients),</p> <p>(2) are noncitizen minors who have received a Child Eligibility Letter from the Department of Health and Human Services; or</p> <p>(3) are granted derivative T nonimmigrant status by USCIS (T-2 through T-6 nonimmigrant status);</p> <p>i) a non-citizen who is a VAWA self-petitioner under 8 U.S.C. § 1101(a)(51), 8 U.S.C. § 1641(c), 62 Fed. Reg. 61344, 61367 (Nov. 17, 1997).</p>	<p>AND: The PHA must request and review an original CIS document of eligible immigration status and must retain photocopies and return the original to the individual.</p> <p>Acceptable Original CIS Document:</p> <ul style="list-style-type: none"> • Form I-551 “Permanent Resident Card” • Form I-94 Arrival-Departure Record annotated with one of the following: - “Admitted as a Refugee Pursuant to Section 207” - “Section 208” or “Asylum” - “Section 243(h)” or “Deportation stayed by Attorney General” - “Paroled Pursuant to 9 CFR Section 221 (d)(5) of the INS” • 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 DHS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a DHS 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). • Form I-9 Employment Eligibility Verification annotated with: <ul style="list-style-type: none"> - Acceptable document from List A or, - Combination of one selection from List B and one selection from List C • A receipt issued by the DHS 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 DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.
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B.1. EXTENSIONS

24 CFR § 5.508(h)(1) - (2) 24 CFR § 5.508(h)(3)

If the family submits the declaration of eligible immigration status and certifies that the family needs more time because the required evidence is temporarily unavailable, the PHA must provide an extension of up to 30 days to submit evidence of eligible status. To obtain an extension, the family also must certify that prompt, and diligent efforts will be undertaken to obtain the evidence.³⁴

Upon determining if the extension request meets the requirements, the PHA must inform the family, in writing, whether their request for a time extension has been either granted or denied. If granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.³⁵

3-IV.C. VERIFICATION OF ELIGIBLE IMMIGRATION STATUS

24 CFR § 5.512(b)

The PHA is required to verify eligible immigration status through the U.S. Citizenship and Immigration Services (CIS). While the PHA may not admit any individual prior to receiving the required documentation described in Exhibit 1, the PHA may elect to provide assistance to the family prior to completing the verification process.³⁶

C.1. Primary Verification Method

24 CFR § 5.512(c)

The PHA must conduct primary verification of eligible immigration status through the CIS automated system, Systematic Alien Verification for Entitlements (SAVE).³⁷ System log-in instructions are found at: <https://SAVE://save.uscis.gov/web/>.

C.2. Secondary Verification Method

42 U.S.C. § 1436(a) 24 CFR § 5.512(c)(2) and (d)(1) 24 CFR § 5.512(d)(1) 24 CFR § 5.512(d)(3)

If the primary verification system does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under a Section 214 covered program, ³⁸ the PHA must attempt secondary verification— as of 2018, the SAVE system verification process is paperless. ³⁹

The PHA must submit a request for secondary verification to CIS within 10 days of receiving the results of the primary verification. ⁴⁰

To request secondary verification, the PHA will forward photocopies of the original required documents with the form G-845S Document Verification Request, or such other form specified by the CIS.

If secondary verification fails, the PHA must notify the family in accordance with the notification requirements described in subsections 3-IV.E.1 and 3-VIII.A. of this Chapters.⁴¹

C.3. CIS Appeals Process

24 CFR §§ 5.512(d)(3),5.514(d) 24 CFR § 5.514(e) 24 CFR § 5.514(e)(3)

The PHA must notify the family in writing if the secondary verification process does not confirm eligible immigration status.

The notice must indicate whether assistance will be delayed, denied, or terminated and inform the family of the right to file an appeal with the CIS. ⁴²

HUD strongly encourages PHAs to include a copy of the verification request form (CIS FORM G-845S) with the notice.

If the family wants to exercise their right of appeal with the CIS, the family must submit a written request for an appeal to the CIS within 30 days of the date of the PHA's notification. ⁴³

The family also must take the following steps:

- Include with the appeal request a cover letter and any support documentation as well as a copy of the verification request form (CIS Form G-845S) which was submitted by the PHA for the secondary verification request.
- Provide the PHA with a copy of the request for appeal with the CIS and proof of mailing (e.g., US Postal Service Certified Mail, a service that provides the sender with a mailing receipt); and
- Provide any additional documentation that the CIS may request.

Within 30 days the CIS will render its decision to the family and forward a copy to the PHA (or provide notice of the reasons for any delay).⁴⁴

3-IV.D. PRORATING ASSISTANCE FOR MIXED FAMILIES

45 24 CFR § 5.520(d)

A mixed family is eligible for prorated assistance. "Prorated assistance" means the family will receive only a portion of the subsidy for which a fully eligible family would qualify. The proration is calculated based on the number of members who are citizens or have eligible immigration status and the total number of family members.

The method of prorating assistance for Public Housing programs ⁴⁵ is shown in Chapter 6 Part VIII.G.

3-IV.E. DELAY, DENIAL, REDUCTION OR TERMINATION

24 CFR § 5.514(a) 24 CFR § 5.514(b)(1)(v)-(vii) 24 CFR § 5.514(b)(1)(i)
24 CFR § 5.514(b)(1)(ii) 24 CFR § 5.514(b)(1)(iv) 24 CFR § 5.514(b)(1)(iv)
24 CFR § 5.514(b)(1)(vi); see also 24 CFR §§ 5.516 and 5.518
24 CFR § 5.514(b)(1)(v) 24 CFR § 5.514(b)(1)(vii);
see also 24 CFR §§ 5.516 and 5.518 24 CFR § 5.514(b)(2) 24 CFR § 5.514(c)(1)
24 CFR §§ 5.512(d)(3), 5.514(d) 24 CFR § 5.514(d)

The PHA must not delay, deny, reduce, or terminate assistance to an applicant or participant based on ineligible immigration status of a family member if any of the following circumstances apply⁴⁶

- At least one person in the household is a U.S. citizen or an eligible noncitizen who has been verified by CIS;⁴⁷
- The family has submitted the required documents to the PHA timely, but the primary and secondary verification processes have not been completed; ⁴⁸
- The family member for whom required documents have not been submitted to the PHA has moved out; ⁴⁹
- The family member who is determined not to be in an eligible immigration status following the CIS verification has moved out;⁵⁰
- The CIS appeals process has not been completed; ⁵¹
- Assistance is prorated in accordance with the types of preservation assistance available to mixed families;⁵²
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified; ⁵³
- A deferral of termination of assistance has been granted;⁵⁴ or
- For a program participant, the informal hearing process is not complete.⁵⁵

Assistance must be denied or terminated when:

- The family has not submitted the declaration of citizenship or eligible immigration status and appropriate documentation by the specified deadline or any extension.

- The family has submitted the required documentation, but CIS primary and secondary verification do not verify eligible immigration status, and the family does not pursue CIS appeal or informal hearing rights.
- The family has submitted required documentation; however, CIS primary and secondary verification do not verify eligible immigration status, and the family pursues CIS appeal or informal hearing rights, but decision(s) are rendered against the family; or
- The PHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit on a permanent basis. In this case, the PHA must terminate assistance for the entire family for at least 24 months. This does not apply if the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

56

3-IV.F. COMPLIANCE WITH VERIFICATION REQUIREMENTS

24 CFR § 5.514(c)(1) 24 CFR §§ 5.512(d)(3), 5.514(d) 24 CFR § 5.514(d) 24 CFR § 960.259(a), Form HUD-9886-A Authorization for the Release of Information/Privacy Act Notice

Participant families are required to provide all necessary information requested by HUD and the PHA and to cooperate in efforts to verify all information provided. 59

For more details on Form HUD-9886-A see Chapter 7 Part I.A.

Once signed, the form provides authorization for the following:

- HUD and the PHA to obtain any information necessary from State Wage Information and Collection Agencies (SWICAs) to verify information provided at the time of application or recertification. This authorization includes accessing HUD's Enterprise Income Verification System (EIV).
- HUD and the PHA to verify income information with previous and current employers that is pertinent to eligibility or level of assistance.
- HUD and the PHA to obtain any financial information to determine an applicant's or participant's eligibility for assistance or level of benefits; and
- HUD to request income tax return information from the IRS and Social Security Administration (SSA) to verify income related to eligibility or level of assistance.

**PART V:
DISCLOSURE OF SOCIAL SECURITY NUMBERS**

24 CFR § 5.216

Notice PIH 2018-24, Verification of Social Security Numbers, Social Security and Supplemental Security Income Benefits; and Effective Use of the Enterprise Income Verification System's Identity Verification Report

The PHA must require applicants and program participants to disclose and document the Social Security Numbers (SSNs) of all family members, except ineligible noncitizens, as a condition of admission and continued assistance.⁶¹

This process occurs only once for each family member, at time of admission and when family members are added to an assisted family, unless a family member has been issued a new SSN, or the Social Security Administration (SSA) has determined that a previously disclosed SSN was invalid.

3-V.A. SSN Disclosure Requirements for Applicant Families

24 CFR § 5.216

Since disclosure and documentation of SSNs is a condition of eligibility for the PH program, an applicant family cannot be admitted to the program until the requirement is met. While the PHA can provide an applicant family with an extension of time to satisfy this requirement, a family's failure to timely disclose and document SSNs as required must result in the PHA's denial of the family's application.⁶²

If an applicant or occupant documents they are in satisfactory immigration status yet fails to provide a social security number based on their immigration status, their federal housing assistance must not be delayed, denied, reduced, or terminated while their immigration status is being verified and/or while their application for a social security number is pending (see subsection 3-IV.E).

3-V.B. SSN Disclosure Requirements for New Household Members Added to a Participant Household

24 CFR § 5.216(a) and (e)(2)(ii)

When a participating family seeks to add a new household member aged 6 and above without an SSN, the family must obtain a SSN for the individual unless the family represents that the individual is not contending eligible immigration status. A participating family may not add the new household member aged 6 and above to the household unless and until an SSN is disclosed and documented to the PHA. ⁶³

B.1 New Household Members Under Age 6 Who Do Not Have an SSN

24 CFR § 5.216(e)(2)(ii)

When adding a new household member who is under six years of age and who does not have an SSN (for example, when adding a newborn child to the assisted household), the participant must disclose and document the SSN for the new member within 90 days of the child's addition to the household.⁶⁴

PHAs may grant a 90-day extension if the failure to provide the information was beyond the family's control (i.e., if the delay was due to delayed processing by the Social Security Administration (SSA), a natural disaster, or a death in the family).

A PHA must add the child to the assisted household pending submission of the SSN and the family must receive all associated benefits and deductions. For submissions to the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system, PHAs must assign an "alternate ID" to the child. PHAs must replace the alternate ID with the child's assigned SSN.

3-V.C. ACCEPTABLE DOCUMENTATION

24 CFR § 5.216(g)(1) (i)-(ii)

PHAs must accept any of the following as acceptable evidence of a family member's or household member's SSN:

- A valid SSN card issued by the SSA;
- An original document issued by the SSA that shows the person's name and SSN (SSA award letter, Medicare card, etc.); or
- An original document issued by a federal, state, or local government agency that contains the name and SSN of the individual (unemployment insurance award letter, welfare or Medicaid documents, etc.).⁶⁵

A PHA must not reject these documents unless:

24 CFR § 5.216(h)(3)(i).

Notice PIH 2012-10, Verification of Social Security Numbers, Social Security and Supplemental Security Income Benefits; and Effective Use of the Enterprise Income Verification System's Identity Verification Report

24 CFR § 5.216(g)(1); Notice PIH 2012-10 24 CFR § 5.218(a) and (c)

- The document is not original.

- The original document appears to be altered, mutilated, or is not legible; or
- The document appears to be a forged (i.e., does not appear to be authentic).⁶⁶

In this case, the PHA must explain to the family why the document is not acceptable and must request that the family provide alternative documentation within a specified timeframe.

A PHA must not require an original SSN card as the only form of acceptable documentation.⁶⁷

Except for mixed families, the family's failure to disclose and document SSNs shall result in a denial of assistance for applicants and termination of assistance for participants.⁶⁸

SOCIAL SECURITY NUMBERS

HUD Notice PIH 2023-27 dated February 2, 2024

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals' experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation to obtain a replacement Social Security card. HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD.

PHAs must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers. HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual: Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

PHA Policy

PHA will continue to attempt to gather third-party verification of SSN prior to admission. PHA opted not to use the option of accepting a self-certification. However, PHA will accept tenant-provided third-party documents with the applicant's name and social security number printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation.

For more information on verification of SSN see **Chapter 7 – Verification Part III. B.**

PART VI: TENANT SCREENING

3-VI.A. TENANT SCREENING

24 CFR § 960.203(c) 24 CFR § 960.203(a)

24 CFR 100.500 (providing that a policy or practice violates the Fair Housing Act if it has a discriminatory effect and is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory effect);

24 C.F.R 1.4(b)(2)(i) (providing that practices with an unjustified discriminatory effect violate Title VI).

24 CFR § 960.203(c)(1)-(3) 73 24 CFR § 960.203(d) 24 CFR § 960.203(c)(3)(i)

See Notice PIH-2015-19

24 CFR §§ 5.105, 960.203(c)(4)

Determining eligibility for public housing also includes the PHA screening an applicant for suitability for tenancy. As such, a PHA may consider certain relevant aspects of an applicant's tenancy history, behaviors, financial, and criminal conviction history. ⁶⁹

Each PHA's ACOP sets forth its applicant selection policies, including applicant screening. Although PHAs have discretion in setting tenant selection criteria, the established criteria must be reasonably related to individual attributes and behaviors, not to the attributes or behavior imputed to a particular group or category of persons to which an applicant may belong. ⁷⁰

PHAs are to keep in mind that certain screening criteria, for example screening criteria that are based on an applicant's criminal record, are likely to disproportionately impact minority applicants.

Where a screening policy has an unjustified discriminatory effect, such policy or practice is unlawful under Title VI and the Fair Housing Act. Thus, a screening policy can be unlawful even if it is not intended to be discriminatory.

A housing provider must be able to prove through reliable evidence that its policy or practice of making housing decisions based on criminal history (or other factors) assists in protecting a legitimate interest such as resident safety and/or property. ⁷¹

Having clear, detailed written screening procedures that limit the use of screening criteria to those that are necessary to achieving legitimate interests such as resident safety can help the PHA apply the criteria consistently to each applicant and ensure the criteria meets HUD requirements.

In screening a family's behavior and suitability for tenancy, the PHA may consider all relevant information, which may include:

- An applicant's past performance in meeting financial obligations, especially rent.
- A record of disturbance of neighbors, destruction of property, or poor housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other tenants; and
- A 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.⁷²

If the PHA receives relevant unfavorable information regarding any screening criteria, the PHA must consider the time, nature, and extent of the applicant's conduct, including the seriousness of the offense.⁷³

The PHA also may consider whether excluding a particular member of the applicant's household with the unfavorable information and allowing the remaining members to be admitted would resolve the PHA's concerns.⁷⁴

Additionally, the PHA may identify in their policies how, when and under what circumstances mitigating factors will be considered.

For example, a willingness to participate in counseling or other social services may indicate a likely favorable change in future conduct.

Regarding all screening criteria, PHAs may only consider information that is accurate and that is relevant to predicting an applicant's likely future behavior as a tenant.

Arrest records do not constitute proof of past unlawful conduct and are often incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted).⁷⁵

Likewise, records from eviction or related cases in which the tenant prevailed or that were settled without either party admitting fault do not necessarily demonstrate a poor tenant history, or extenuating circumstances may explain why a past eviction is not indicative of an applicant's future conduct (e.g., if an eviction was due to unexpected medical or emergency expenses, or a negative reference reflected bias).

In all instances, tenant selection criteria are subject to the nondiscrimination and equal opportunity provisions of 24 CFR 5.105, which includes the Fair Housing Act and Title VI and their implementing regulations prohibiting practices with an unjustified discriminatory effect, and the provisions for the protection for victims of domestic violence, dating violence, sexual assault or stalking at 24 CFR part 5, Subpart L.⁷⁶

In cases of requests for emergency transfers under VAWA, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, the receiving PHA may accept

and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information.

3-VI.B. CRIMINAL BACKGROUND SCREENING

See Notice PIH-2015-19

24 CFR § 960.203(d)(1)(ii); see also April 4, 2016, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions.

HUD encourages PHAs to seek policies that strike a balance between resident safety and the reentry needs of formerly incarcerated individuals and others with criminal histories.

PHA policies must comply with federal nondiscrimination statutes, which may include an individualized assessment of a person's criminal record and reentry needs.

PHAs are encouraged to consider options for providing housing access to persons with conviction histories as appropriate and defined in the PHAs' ACOP.

PHAs may admit persons with criminal conviction records outside of those who are subject to a lifetime sex offender registry and those who have been convicted of manufacturing methamphetamine on the premises of federally subsidized housing.

PHAs may consider conviction records because other criminal records, such as arrest records, are not actually evidence of unlawful conduct and are often incomplete.

PHAs must set admission policies for their public housing programs consistent with both program and federal fair housing and civil rights requirements.⁷⁷

HUD encourages PHAs to consider other factors such as evidence of rehabilitation or participation in social service programs before any denial. ⁷⁸

B.1. Consent for Background Screening

Notice PIH-2012-28

Criminal background checks to screen for whether an applicant is subject to a lifetime sex offender registry must be performed in the state in which the housing is located and for states where the applicant and members of the applicant's household may have resided, unless the PHA uses a national database such as the Dru Sjodin database to search for such information. ⁷⁹

PHAs must ask adult applicants to provide all the states in which they have lived and whether their name appears on any sex offender registry or the PHA could use a national database such as the Dru Sjodin database to search for such information. Failure of applicants to disclose this information is cause for denial.⁸⁰

To access an individual's criminal conviction record, each adult household member must sign a consent form for the release of criminal conviction records by law enforcement agencies.⁸¹

Any fees law enforcement agencies may charge for providing the records to the PHA must not be passed along to the applicant family.⁸²

B.2. Information from Drug Abuse Treatment Facilities

24 CFR § 960.204(a)(2) 24 CFR § 960.205 4 CFR § 960.205

PHAs may deny admission to household members that are currently engaging in the use of illegal use of a controlled substance.

Information obtained that shows past use of substance abuse or alcoholism is not grounds for denying admissions. ⁸³

PHAs may require each person who applies for admission to sign one or more forms of written consent authorizing the agency to receive information from a drug treatment facility to ascertain whether the applicant is currently engaging in the use of illegal use of a controlled substance.⁸⁴

However, if the PHA chooses to seek this information, it must follow specific requirements set forth in HUD's regulations. ⁸⁵

B.3. Records Retention and Confidentiality

24 CFR §§ 5.903(g)(3), 5.905(c)(1)(iii) ⁸⁷ 24 CFR §§ 5.905(c)(1)(i) (ii) § 5.903(g)(1) and (2) ⁸⁸
24 CFR §§ 5.905(c)(1)(iii), 5.903(g)(3) 24 CFR § 5.2007(c)

Because there are strict penalties for improper disclosure of criminal conviction records, the PHA must establish procedures aimed at maintaining confidentiality. ⁸⁶

Criminal records must be maintained confidentially and may only be disclosed to persons within the PHA with a job-related need to know the contents. ⁸⁷

Criminal background records, including sex offender registration information must be destroyed promptly once the purpose has been served.

For example, if the PHA decides to admit the family to the PH program, the records must be destroyed immediately. If the PHA decides to deny admission based on a criminal conviction record, the record may be retained during the period allowed for requesting an informal review, and until the review, if requested, has been completed. The record must then be destroyed promptly.

The PHA must not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file.⁸⁸

In addition, any information an individual submits regarding medical or other information to support an individual's reasonable accommodation request, including reasonable accommodation

requests related to a PHA’s decision to deny admission based on a criminal record, must be kept confidential.

Additionally, if the individual has represented that they are a victim of domestic violence, dating violence, sexual assault, or stalking while invoking rights under VAWA, any information they submit must be kept strictly confidential.⁸⁹

PHA OPTIONS: Considerations for Screening Policies

The minimum requirements for criminal background screenings and denial of assistance are outlined in this chapter.

HUD has issued guidance encouraging PHAs to strike a balance between resident safety and the reentry needs of formerly incarcerated individuals and others with criminal history records.

PHAs have broad discretion in setting their admission policies. PHAs’ policies must comply with federal nondiscrimination statutes, which may include an individualized assessment of a person’s criminal record and reentry needs.

HUD encourages PHAs to allow individuals released from incarceration to rejoin their families when appropriate, and to obtain housing if they meet all other admission requirements.

PHAs are also encouraged to consider other factors in their decisions such as rehabilitation and participation in social service programs.

Related Resources:

It Starts with Housing: Public Housing Agencies are Making Second Chances Real

PIH Notice 2015-19: Guidance for Public Housing Agencies (PHAs) and Owners of Federally Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions

FAQs: Excluding the Use of Arrest Records in Housing Decisions Letter from Marcia Fudge, Secretary, United States Department of Housing and Urban Development, to PHAs, June 23, 2021

B.4. Denial of Assistance for Criminal Activity

24 CFR §§ 5.852(e), 5.861; 960.202(c)(3), 966.6(l)(5)(vii)(F)

Notice PIH-2015-19, Guidance for Public Housing Agencies and Owners of Federally Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions

24 CFR § 5.2003 24 CFR § 5.2005(b)(2) 24 CFR § 5.903(f); § 5.905(d); § 960.204(c)

PHA policies must ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. Specifically, before a PHA denies admission to, terminates the assistance of, or evicts an individual or household

based on criminal activity by a household member or guest, they must determine that the relevant individual engaged in such activity.⁹⁰

PHAs are prohibited from denying admission or terminating assistance solely based on arrest records.⁹¹

Prior to evicting a tenant because of a guest's criminal activity, the PHA may consider whether the tenant was aware of the criminal activity or evidence that the guest is unlikely to return to the property.

A tenant in a housing program covered by VAWA may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if the criminal activity is engaged in by a member of the household, a guest, or a person under the control of the tenant and the tenant or an affiliated individual ⁹² of the tenant is the victim or threatened victim.⁹³

If the PHA decides to deny admission based on a criminal conviction record, the PHA must notify the family of the proposed action and must give the family an opportunity to dispute the accuracy and/or relevance of the record. ⁹⁴

A copy of the criminal conviction record must be provided to the head of household and to the subject of the record (if not the head of household). If the family does not dispute the record, or if the family disputes the record but the PHA rejects the families' dispute, a denial notice must be sent.

The notification of a proposed action based on a criminal record is a regulatory requirement and is separate from the PHA's informal review procedures.

PHAs must deny admission when:

24 CFR § 960.204(a) and (b);

Notice PIH-2012-28 ⁹⁶ Certain of the guidance herein – such as the foregoing guidance regarding admission of a new member to an already-existing household – applies to all federally assisted housing, not just to the Public Housing program. See, e.g., 42 U.S.C. § 13663(a).

1. Any household member has been convicted of manufacturing methamphetamines on the premises of federally assisted housing.

2. Any household member is subject to a lifetime sex offender registration requirement.

- The PHA must check for sex offender registration in its own state and in any other state where the family has resided. Use of a nationwide database such as www.nsopw.org is recommended to conduct this required check.

3. The PHA determines that a household member is currently engaging in illegal drug use.
4. The PHA has reasonable cause to believe that other tenants' health, safety or right to peaceful enjoyment may be threatened by a household member's:
 - Illegal drug use or pattern of illegal drug use, or
 - Abuse or pattern of abuse of alcohol.
5. A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.

The PHA may admit the family, however, if it determines that the household member who engaged in the activity has successfully completed a supervised rehabilitation program, or the circumstances no longer exist (for example, the household member has died or is imprisoned).⁹⁵

The term "admission" includes and applies to a person seeking to become a new member of an already-existing household. For example, PHAs must prohibit a person subject to a lifetime sex offender registration requirement from becoming a new member of an already-existing household (e.g., being added to an already-existing lease). Such an addition to the existing household would constitute a new "admission" for the added individual. ⁹⁶

Mandatory and discretionary denials of admission for criminal activity or drug abuse are summarized below:

This ban is, of course, not permanent if the conviction that forms its basis is reversed following a successful appeal and the applicant reapplies.

If an individual successfully appeals to the lifetime registration requirement and reapplies following the successful appeal, the offender is not barred at the time of the reapplication because the individual is no longer subject to a lifetime registration requirement.

See "State Registered Lifetime Sex Offenders in the Housing Choice Voucher and Public Housing Programs FAQ" at 2.

Type of Criminal Activity or Offense/Drug Abuse	Action
Convicted of producing methamphetamine on the premises of federally assisted housing.	Mandatory denial. ⁹⁷
Subject to a lifetime registration requirement under a state sex offender program.	Mandatory denial. ⁹⁸
Determined to be currently engaging in illegal use of a controlled substance.	Mandatory denial
Reasonable cause to believe that illegal use or pattern of illegal use of a controlled substance or abuse or pattern of abuse of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.	Mandatory denial
Evicted from federally assisted housing for drug-related criminal activity within the last three years, UNLESS • The circumstances leading to the eviction no longer exist, or • The evicted household member has successfully completed an approved supervised drug rehabilitation program.	Mandatory 3-year denial on admission, except if specified conditions are met then PHA may exercise discretion
History of drug-related criminal activity.	Discretionary denial
History of violent criminal activity.	Discretionary denial
History of criminal activity that adversely affects the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, persons residing in the immediate vicinity of the premises, or public housing agency employees.	Discretionary denial

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

PHA Policy

The PHA will comply with the above charge of type of criminal activity or Offense/Drug Abuse and Action.

The PHA will make every effort to prove through reliable evidence that its policy or practice of making housing decisions based on criminal history (or other factors) that assists in protecting a legitimate interest such as resident safety and/or property.

The PHA understands that having clear, detailed written screening procedures that limit the use of screening criteria to those that are necessary to achieving legitimate interests such as resident safety can help the PHA apply the criteria consistently to each applicant and ensure the criteria meets HUD requirements.

In screening a family's behavior and suitability for tenancy, the PHA will consider all relevant information, which includes:

- A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

If the PHA receives relevant unfavorable information regarding any screening criteria, the PHA will consider the time, nature, and extent of the applicant's conduct, including the seriousness of the offense **according to the above chart.**

The PHA will also consider whether excluding a particular member of the applicant's household with the unfavorable information and allowing the remaining members to be admitted would resolve the PHA's concerns. Additionally, the PHA will identify when and under what circumstances mitigating factors will be considered. **For example**, a willingness to participate in counseling or other social services may indicate a likely favorable change in future conduct.

Regarding all screening criteria, the PHA will only consider information that is accurate and that is relevant to predicting an applicant's likely future behavior as a tenant.

The PHA understands that arrest records do not constitute proof of past unlawful conduct and are often incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted).

In all instances, the PHA understands that tenant selection criteria are subject to the nondiscrimination and equal opportunity provisions of 24 CFR 5.105, which includes the Fair Housing Act and Title VI and their implementing regulations prohibiting practices with an unjustified discriminatory effect, and the provisions for the protection for victims of domestic violence, dating violence, sexual assault or stalking at 24 CFR part 5, Subpart L.

In cases of requests for emergency transfers under VAWA, with the written consent of the victim, the PHA will verify eligibility and tenant screening. **See Chapter 2, Part III and Part V Exhibits 2-1, 2-2, 2-3, 2-4.**

CRIMINAL BACKGROUND SCREENING

PHA Policy

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

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

The PHA will use the Megan's Law Sex Offender database to screen applicants for admission.

Additionally, PHAs will ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state as stated in Notice PIH 2012-28.

If the PHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the PHA will notify the household of the proposed action and will 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 as stated in 24 CFR 5.903(f) and 5.905(d).

As encouraged by HUD, the PHA will strike a balance between resident safety and the reentry needs of formerly incarcerated individuals and others with criminal histories.

The PHA will comply with federal nondiscrimination statutes, which may include an individualized assessment of a person's criminal record and reentry needs.

As encouraged by HUD, the PHA will consider options for providing housing access to persons with conviction histories as appropriate and defined below:

The PHA will admit persons with criminal conviction records outside of those who are subject to a lifetime sex offender registry and those who have been convicted of manufacturing methamphetamine on the premises of federally subsidized housing.

PHA will consider conviction records because other criminal records, such as arrest records, are not actually evidence of unlawful conduct and are often incomplete.

As encouraged by HUD, the PHA will consider other factors such as evidence of rehabilitation or participation in social service programs before any denial.

1. Consent for Background Screening

Notice PIH-2012-28

The PHA will review criminal background checks to screen for whether an applicant is subject to a lifetime sex offender registry in the state in which the housing is located and for states where the applicant and members of the applicant's household may have resided, unless the PHA uses a national database such as the Dru Sjodin database to search for such information.

PHA will ask adult applicants to provide all the states in which they have lived and whether their name appears on any sex offender registry or the PHA could use a national database such as the Dru Sjodin database to search for such information. Failure of applicants to disclose this information is cause for denial.⁸

To access an individual's criminal conviction record, each adult household member must sign a consent form for the release of criminal conviction records by law enforcement agencies.⁸¹

Any fees law enforcement agencies may charge for providing the records to the PHA must not be passed along to the applicant family.

2. Information from Drug Abuse Treatment Facilities

The PHA will deny admission to household members that are currently engaging in the use of illegal use of a controlled substance. However, information obtained that shows past use of substance abuse or alcoholism is not grounds for denying admissions. The PHA may require each person who applies for admission to sign one or more forms of written consent authorizing the agency to receive information from a drug treatment facility to ascertain whether the applicant is currently engaging in the use of illegal use of a controlled substance. However, if the PHA chooses to seek this information, it will follow specific requirements set forth in HUD's regulations - **24 CFR 960.205**

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the PHA 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.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to 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 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 must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the PHA for information provided from a drug abuse treatment facility will not be passed on to the applicant or tenant. If the PHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The PHA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or co-head regardless of age.

Policy B: The PHA must 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 sole 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 must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

PHA Policy

The PHA will 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 PHA 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.

3. Records Retention and Confidentiality

Criminal records will be maintained confidential and will only be disclosed to persons within the PHA with a job-related need to know the contents.

Criminal background records, including sex offender registration information will be destroyed promptly once the purpose has been served.

For example, if the PHA decides to admit the family to the PH program, the records must be destroyed immediately. If the PHA decides to deny admission based on a criminal conviction record, the record may be retained during the period allowed for requesting an informal review, and until the review, if requested, has been completed. The record must then be destroyed promptly.

The PHA will not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file.

In addition, any information an individual submits regarding medical or other information to support an individual's reasonable accommodation request, including reasonable accommodation requests related to a PHA's decision to deny admission based on a criminal record, must be kept confidential.

Additionally, if the individual has represented that they are a victim of domestic violence, dating violence, sexual assault, or stalking while invoking rights under VAWA, any information they submit must be kept strictly confidential.⁸⁹

See Chapter 2, Part III and Part V discussing VAWA.

4. Denial of Assistance for Criminal Activity

The PHA will ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity.

Specifically, before the PHA denies admission to, terminates the assistance of, or evicts an individual or household based on criminal activity by a household member or guest, they will determine that the relevant individual engaged in such activity.

The PHA will not deny admission or termination assistance solely based on arrest records.

Prior to evicting a tenant because of a guest's criminal activity, the PHA will consider whether the tenant was aware of the criminal activity or evidence that the guest is unlikely to return to the property.

A tenant in a housing program covered by VAWA will not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if the criminal activity is engaged in by a member of the household, a guest, or a person under the control of the tenant and the tenant or an affiliated individual of the tenant is the victim or threatened victim.

If the PHA decides to deny admission based on a criminal conviction record, the PHA will notify the family of the proposed action and must give the family an opportunity to dispute the accuracy and/or relevance of the record.

A copy of the criminal conviction record will be provided to the head of household and to the subject of the record (if not the head of household). If the family does not dispute the record, or if the family disputes the record but the PHA rejects the families' dispute, a denial notice must be sent.

The notification of a proposed action based on a criminal record is a regulatory requirement and is separate from the PHA's informal review procedures.

PHAs must deny admission when:

1. Any household member has been convicted of manufacturing methamphetamines on the premises of federally assisted housing.
2. Any household member is subject to a lifetime sex offender registration requirement.

- The PHA will check for sex offender registration in its own state and in any other state where the family has resided. Use of a nationwide database such as www.nsopw.org is recommended to conduct this required check.

3. The PHA determines that a household member is currently engaging in illegal drug use.

4. The PHA has reasonable cause to believe that other tenants' health, safety or right to peaceful enjoyment may be threatened by a household member's:

- Illegal drug use or pattern of illegal drug use, or
- Abuse or pattern of abuse of alcohol.

5. A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.

The PHA may admit the family, however, if it determines that the household member who engaged in the activity has successfully completed a supervised rehabilitation program, or the circumstances no longer exist (for example, the household member has died or is imprisoned).

The term "admission" includes and applies to a person seeking to become a new member of an already-existing household. For example, the PHA must prohibit a person subject to a lifetime sex offender registration requirement from becoming a new member of an already-existing household (e.g., being added to an already-existing lease). Such an addition to the existing household would constitute a new "admission" for the added individual. Mandatory and discretionary denials of admission for criminal activity or drug abuse are summarized in the chart above.

BHA will conduct a 3-year criminal background check on all applicants.

**PART VII:
EIV SYSTEM SEARCHES AT ADMISSION**

3-VII.A. EIV System Searches at Admission

The Enterprise Income Verification (EIV) System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information for tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing.

This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the SSA and the U.S. Department of Health and Human Services, for all program participants with valid personal identifying information (name, date of birth (DOB), and SSN) reported on the form HUD-50058.

A.1. Existing Tenant Search and Avoiding Duplicate Subsidy

Notice PIH-2018-18, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

Prior to admission into the program, the PHA must search for each family member in the EIV Existing Tenant Search. The search will show if any family member is currently assisted by another public housing agency.⁹⁹

A.2. HUD-52675 Debts Owed to PHAs and Terminations

Notice PIH-2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System; form HUD-52675 Debts Owed to Public Housing Agencies and Terminations

Prior to admission to the program, the PHA must search for each adult family member in the EIV Debts Owed to PHAs and Terminations database.¹⁰⁰

All adult household members must sign the form HUD-52675 once, at admission. ¹⁰¹

The form provides notification to adult household members that debt and terminations information will be collected, shared with other PHAs and will be accessible by HUD staff, PHA staff, and contractors to determine suitability for rental assistance. The Debts Owed to PHAs & Termination Report may be generated in EIV as a standalone report; the information from the report also is contained in the Income Report for each household.¹⁰²

If any information on debts or terminations is returned by the search, the PHA will determine if the offenses violate their respective admissions policies. The family has a right to request and obtain a copy of the report from the PHA and dispute the reported information, providing any supporting documentation.

To ensure the availability of records, disputes of the original debt or termination information must be made within three years from the end of participation date, unless reasonable accommodation to this policy is made; otherwise, the debt and termination information will be presumed correct. Only the PHA who reported the adverse information can delete or correct the record. The PHA has 30 days from receipt of the written dispute to provide notification of its action—either to update or delete the record if the PHA determines the information is incorrect or to provide an explanation as to why the information is correct.¹⁰³

A.3. 120-day review of Income Report

Notice PIH-2017-12

Income information is typically not available in EIV for applicant families. If information is not available at the time of income determination, the PHA must review the family's EIV Income Report 120 days after the New Admission (action code 1) is processed to identify any unreported or underreported income sources.¹⁰⁴

For more information on EIV see **Chapter 7 – Verification, Part I.**

PART VIII: NOTIFICATIONS TO FAMILY

3-VIII.A. NOTIFICATION TO FAMILY

A.1 Emergency Contact

Section 644 of the Housing and Community Development Act of 1992, Public Law 102-550

The PHA must notify the family of their right to provide an emergency contact and give the family an opportunity to provide the emergency contact.¹⁰⁵

PHAs may use the form HUD-92006 to meet this requirement, however the family is not required to provide emergency contact information.

A.2 Notification Requirements

24 CFR § 5.508(f)(1)

At the time an application is filed, the PHA must notify all applicants for assistance about the rule restricting assistance based on citizenship or immigration status and of the requirement to submit documentation of eligible status or to elect not to claim eligible status. ¹⁰⁶

See section 3-IV.E.1 of this Chapter for further detail.

A.3 Effective Communication and Limited English Proficiency Requirements

See 24 CFR § 8.6 and 28 CFR 35.160

PHAs must ensure effective communication with individuals with disabilities, to include providing all notifications and communications in accessible formats. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters.¹⁰⁷ PHAs must also take reasonable steps to ensure meaningful access to their programs and activities to individuals with limited English proficiency. See HUD's Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) (72 FR 2732). This may entail the PHA providing information in translated formats, or other language assistance services. LEP guidance and LEP information is available on HUD's website. **See Chapter 2, Part II for a discussion about LEP**

PART IX: DENIAL OF ASSISTANCE

3-IX.A. DENIAL OF ASSISTANCE

The information in this section applies generally to all denials of assistance. The factors used in determining denials of assistance include timing of denials, non-discrimination, and consideration of circumstances.

A.1. Timing of Denial

24 CFR § 960.203(a) 24 CFR § 960.208(a)

An applicant may be denied assistance under the public housing program only for violations of the program requirements that are identified as grounds for denial of assistance.¹⁰⁸

The PHA must promptly notify any applicant determined to be ineligible for admission to a project, and must provide the applicant upon request, within a reasonable time after the determination is made, an opportunity for an informal hearing on the denial.¹⁰⁹

A.1.a. Notice and Right to Dispute Denial

24 CFR § 960.208(a) 24 CFR § 960.204(c)

Notice PIH-2017-08 24 CFR § 966.51(a)(1); Only PHA residents are entitled to Grievance Hearings

PHAs must send a formal notice of denial to an applicant who is denied admission.¹¹⁰

The notice can be drafted to address both denials for eligibility and screening on the same form.

If the household is denied because of criminal activity, the notice would include language that offers the applicant and the person to whom the criminal record applies (if different) a copy of the criminal records and an opportunity to dispute the accuracy and relevance of the record.¹¹¹

In addition, the denial letter should:

- Clearly state the reason for the denial
- State the period and process for requesting an informal hearing and
- Provide notice to the applicant that a person with a disability could request reasonable accommodation
- Provide notice of the mandatory VAWA Notice of Occupancy Rights, along with form HUD-5382.¹¹² See Chapter 2, Part III and Part V.

The informal hearing for denied applicants is not a Grievance Hearing.¹¹³

The purpose of the hearing is to permit the applicant to hear the details of the reasons for denial, present evidence to the contrary if available, and claim mitigating circumstances when possible.

The person who made the original decision to deny, or a subordinate of that person, may not conduct the hearing.

A written record of the hearing decision should be mailed to the applicant and placed in the applicant's file. If the hearing decision overturns the denial, processing for admission should resume.

A.2. Non-discrimination

24 CFR § 5.105(a); Notice PIH-2014-20: Program Eligibility Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule 24 CFR § 5.2005(b). 24 CFR § 5.2005; Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) Notice PIH-2017-08.

All decisions to deny assistance are subject to civil rights and antidiscrimination laws such as the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 (ADA), and must comply with the nondiscrimination and equal opportunity provisions of 24 CFR 5.105(a). Requirements under the Violence Against Women Act (VAWA) and 24 CFR part 5, Subpart L also apply.

The PHA must not deny admission solely based on certain family characteristics, including families with children, single-parent families, families with parents who are not married, or families with children born to such parents, families that receive public assistance, or whether the family decides to participate in the Family Self-sufficiency (FSS) program.

The PHA is prohibited from denying admission on the basis of any protected class, including age, race, color, religion, sex (including sexual orientation and gender identity), national origin, familial status, and disability.

Consistent with HUD's Equal Access Rule, HUD-assisted and HUD-insured housing must be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.¹¹⁴

For households with a household member with a disability, a PHA must grant a reasonable accommodation request made by an applicant unless it constitutes an undue financial and administrative burden, is a fundamental alteration to the program, or results in a direct threat that cannot be reduced or eliminated, including by granting another reasonable accommodation.

This includes, for example, a reasonable accommodation request made by an applicant who was denied admission due to criminal activity or a previous eviction from housing assistance under

the program for serious violation of the lease where the tenant claims that criminal activity, eviction, or lease violation was related to that tenant's disability. More information on reasonable accommodation and fair housing requirements can be found in the Fair Housing and Nondiscrimination Requirements Chapter.

If an applicant is otherwise eligible, admission to the program may not be denied to the program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.¹¹⁵

PHAs must notify applicants that protections are available to victims under the Violence Against Women Act (VAWA), as reauthorized, and 24 CFR part 5, Subpart L.¹¹⁶

More information is available in PIH's VAWA Notice.¹¹⁷

A.3. Consideration of Circumstances

24 CFR §§ 5.825(b), 960.203(c)(3)(i). 24 CFR § 960.203(c)(4)

In deciding whether to deny assistance because of unfavorable actions by members of the family, PHAs have discretion to consider the circumstances in each case and may be required to do so in certain circumstances by fair housing and civil rights laws.

Circumstances could include, for example, the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.¹¹⁸

Also, the PHA may offer the family the opportunity to remove the ineligible family member from the application to become eligible in certain circumstances.¹¹⁹

The PHA's admission actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with the requirements of 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).¹²⁰ See **Chapter 2, Part III and Part V.**

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

3-IX.B. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

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

PHA Policy

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

- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last 3 years.
- 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.
- Threaten refers to oral or written threats or physical gestures that communicate with the intent to abuse or commit violence.

3-IX.C. CRITERIA FOR DECIDING TO DENY ADMISSION

PHA Policy

Evidence:

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

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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:

The PHA will consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.

- The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-IX.D.) a victim of domestic violence, dating violence, sexual assault, or stalking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record or records of arrest will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
 - Any statements made by witnesses, or the applicant not included in the police report.
 - Whether criminal charges were filed
 - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
 - Any other evidence relevant to determining whether the applicant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

The PHA will require the applicant to submit evidence of the household member's current participation in, or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

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

PHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of the 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 PHA request.

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

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

PHA Policy

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

See Chapter 2, Part IV, for a discussion about reasonable accommodation.

**3-IX.D. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS UNDER
VAWA**

PHA Policy

See Chapter 2, Part III and Part V. for a discussion on this topic.

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 PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the PHA must 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 PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment.

HUD regulations require that the PHA 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 PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for accepting applications, managing the waiting list and selecting families from the waiting list. The PHAs 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 PHA will handle the applications it receives.

Part II: Managing the Waiting List: This part presents the policies that govern how the PHA'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 PHA 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 PHA 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 PHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the PHA to determine the format and content of its applications, as well as how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36

PHA Policy

Applications are accepted online only; placement will be determined by "Date and Time" of application received through a portal managed by PHA's computer software company.

Families who wish to apply for any of the PHA's programs must complete an online application and must have/create an e-mail address.

Persons with disabilities may call the PHA to receive guidance on the online application process or make other arrangements under reasonable accommodation to complete their application.

The PHA initially requires all applicants to provide the information needed to assess the family's eligibility and to determine the family's placement on the waiting list. Additional and updated information is required when the applicant is selected from the waiting list.

Applicants are required to inform the PHA in writing of changes in family composition, income, and address, as well as any changes that could affect their Preference.

Applicants are also required to respond to requests from the PHA to update information on their application, or to determine their continued interest in assistance; failure to respond will result in removal from the waiting list.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Applications will only be accepted online for all waiting lists. The manner of applying by scheduled appointment or first-come/first-served will be determined by current conditions and posted conspicuously.

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

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

The PHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodation for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. See Chapter 2, Part II. It provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA must 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 position on the waiting list.

Ineligible for Placement on the Waiting List

PHA Policy

If the PHA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 calendar days of receipt of the 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

PHA Policy

The PHA will send 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.

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

The PHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (if the unit is not overcrowded according to PHA 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.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the PHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public of the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure enough applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for public housing at a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

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

PHA Policy

The waiting list will 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

Address

Position on the waiting list

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

PHA Policy

The PHA will maintain one single community-wide waiting list for its developments. Within the list, the PHA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units). The PHA will not adopt site-based waiting lists.

HUD requires that public housing applicants must 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 PHA 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)].

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

PHA Policy

The PHA 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 PHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all its developments. The PHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

PHA Policy

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

Reopening the Waiting List

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

PHA Policy

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

The Bethlehem Housing Authority will give public notice by publishing the relevant information in suitable media outlets such as: The Morning Call or The Easton Express

Times. Information will also be available on our BHA website and our Social Media Facebook page.

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

The PHA should conduct outreach as necessary to ensure that the PHA has enough applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

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

PHA outreach efforts must comply with fair housing requirements. This includes:

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

PHA outreach efforts must be designed to inform qualified families about the availability of units under the program.

These efforts may include, as needed, any of the following activities:

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

PHA Policy

The PHA will monitor the characteristics of the population being served and the characteristics of the population in the PHA'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

PHA Policy

While the family is on the waiting list, the family must inform the PHA, 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

HUD requires the PHA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA's request for information or updates because of the family member's disability, the PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as 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 accommodation.

PHA Policy

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

To update the waiting list, the PHA will send an updated request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The updated request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 10 calendar days from the date of the PHA letter. The PHA allows a grace period of ten calendar days after completion of the purge. Applications who respond during this grace period will be reinstated.

If the family fails to respond within 10 Calendar 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.

An extension of 30 days to respond will be granted if requested and needed as reasonable accommodation for a person with a disability.

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 10 Calendar 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 PHA 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 PHA may reinstate the family if the lack of response was due to PHA error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, including an adverse factor resulting from such abuse. **See Chapter 2, Part III and Part V.**

Removal from the Waiting List

PHA Policy

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

If the PHA 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 PHA 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 PHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)].

The PHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

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

The PHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

PHA Policy

When an applicant or resident family requests a copy of the PHA's tenant selection policies, the PHA will direct them to our website.

4-III.B. SELECTION METHOD

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

Local Preferences [24 CFR 960.206] PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preference established must be consistent with the PHA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

PHA Policy

The Bethlehem Housing Authority will use the following local preferences:

**1. Violence Against Women Act – See Chapter 2, Part III and Part V. (3 points)
Residence/Working 20 hours or more (1 point)**

- **Residence** – an applicant family who qualifies as a resident of the Bethlehem’s jurisdiction – must provide a current lease or a Resident Verification Form signed by the property owner. You also must provide documents with current address such as: utility bills and picture ID – either driver’s license or state ID.
- **Working in the Bethlehem’s jurisdiction** – Families where the head, spouse, co-head or sole member is employed as per HUD. Must work 20 hours of more per week in Bethlehem and must provide a letter from the employer verifying local employment along with 2 most current paystubs.
- **Elderly (62 or older/or Disabled** – The following family will be given the benefit of the working preference as required by HUD: 1) Families where the head, spouse, or cohead are either 62 or older, or a person with disabilities, 2) the sole member is age 62 or older or person with disabilities, or 3) the head of household is a person with disabilities and resides with family members who are minors. Must provide a BHA disability form completed by a Medical Professional or a letter by a Medical Professional stating such disability, and/or provide a currently dated award letter from the Social Security Administration Office (SSD/SSI).

2. Veteran – Honorably discharged (1 point)

If an applicant or co-head spouse is a veteran honorably discharged or is currently on active duty, the applicant must provide a copy of DD214 or the active-duty ID card.

3. Displaced by Natural Federal Disaster (2 points)

Displaced by a federally recognized natural disaster such as fire, earthquake, or hurricane – provide the most current paperwork received from FEMA or Red Cross relating to Red Cross relating to the event.

Among applicants who qualify for more than 1 preference, date and time of application will be used to determine placement on the waiting list. Those applicants claiming a local preference based on employment will be required to provide a statement from the employer and recent paystubs.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list to select an ELI family.

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

PHA Policy

The PHA 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.

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 PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. An 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 PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

The PHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The PHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the PHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the PHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must 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 effect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

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

PHA Policy

The PHA does have designated elderly or designated disabled housing at this time.

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

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

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

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

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

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

Step 1. The PHA must determine the average income of all families residing in all the PHA's covered developments. The PHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

PHA Policy

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

Step 2. The PHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the PHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

PHA Policy

The PHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. The PHA must 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 (federal poverty level or 30 percent of median income, whichever number is higher).

Step 4. The PHA with covered developments having average incomes outside the EIR must then determine whether 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 PHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances, the PHA's deconcentrating policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR

- Skipping a family on the waiting list to reach another family to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the PHA's deconcentration policy. The PHA must 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 in compliance with the deconcentrating requirement, and no further action is required.

Order of Selection [24 CFR 960.206(e)]

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

PHA Policy

For developments outside the EIR the PHA will take the following actions to provide for deconcentration of poverty and income mixing:

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 PHA.

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

The PHA will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

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

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

4-III.C. NOTIFICATION OF SELECTION

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

PHA Policy

The PHA 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 PHA 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 PHA from making an eligibility determination; therefore, no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period determined by the PHA [Notice PIH 2018-24].

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

PHA Policy

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

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 presented at the interview would not begin until signed release forms are returned to the PHA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for **ten (10) calendar days**. If not, all household members have disclosed their SSNs the next time a unit becomes available, the PHA will offer a unit to the next eligible applicant family on the waiting list.

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 PHA will proceed with the interview. If the PHA 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 the required forms, provide required signatures, and submit required documentation. If any materials are missing, the PHA 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 items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan. **See Chapter 2, Part II.**

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second letter will state that failure to appear for the appointment without a request to reschedule will be interpreted as mean that the family is no longer interested, and their

application will be made inactive. Such failure to act on the part of the applicant prevents the PHA 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 PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility (see Chapter 3).

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

PHA Policy

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

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

The PHA must promptly notify any family determined to be ineligible for admission on 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)].

PHA Policy

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

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

VAWA: The PHA must provide applicants with form HUD-5380) accompanied with form HUDD-5382) upon denial of assistance. See Chapter 2, Part III and Part V.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The PHA must establish policies governing the occupancy of dwelling units and offering dwelling units to qualified families.

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

Policies in this chapter are organized in two parts.

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

Part II: Unit Offers: This part contains the PHA'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 are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA 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 PHA may 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. PHAs are permitted to develop appropriate occupancy standards if the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

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

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

PHA Policy

The PHA will use the same occupancy standards for each of its developments.

The PHA's occupancy standards are as follows:

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

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.

Children related to household members by birth, adoption, or court awarded custody will be considered when determining unit size.

Foster children will be considered when determining unit size. The family may add foster children to the household if it does not overcrowd the unit based on the PHA's occupancy standards.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

The PHA will reference the following standards in determining the appropriate 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-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

PHA Policy

The PHA will consider granting exceptions to the occupancy standards at the family's request if the PHA 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 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 unit.

When evaluating exception requests the PHA will consider the size and configuration of the unit. In no case will the PHA 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 one (1) year from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the PHA 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

PHA Policy

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 PHA will encourage the resident to make the request in writing using reasonable accommodation request form. However, the PHA will consider the exception request any time the resident indicates that accommodation is needed whether 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 PHA will notify the family of its decision within 10 business days of receiving the family's request.

**PART II:
UNIT OFFERS**

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

5-II.A. OVERVIEW

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

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

PHA Policy

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

5-II.B. NUMBER OF OFFERS

According to HUD's Public Housing Occupancy Guidebook dated 2020, the PHA must address how many unit-offers of housing an applicant may refuse without good cause before being dropped from the waiting list or dropped to the bottom of the waiting list.

PHA Policy

Without a good cause, the PHA has adopted a "One offer plan" for offering a unit to applicants. Under this plan, the PHA will determine what locations within its jurisdiction have available units of suitable size and type in the appropriate type of project.

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

Without good cause, the PHA will continue to exercise one (1) unit offers only. If the applicant does not except such a unit, he/she will be removed from the waiting list.

PHA will reserve the right to lease units remotely when applicable.

See, 5.II.D regarding good cause for unit refusal.

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

PHA Policy

Applicants must accept or refuse a unit offer within three (3) calendar 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)].

PHA Policy

Applicants may refuse to accept a unit offer for “good cause.”

Good cause includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant’s race, color, national origin, etc. [PH Occ GB, p. 104].

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

- The family demonstrates to the PHA’s satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy.
- A health professional must verify any 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 family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency.
- **For VAWA: See Chapter 2, Part III and Part.**
- 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.

Good reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption, **including furniture being too big for units.**

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

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

Unit Refusal without Good Cause

PHA Policy

When an applicant rejects the final unit offer without good cause, the PHA 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 review 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 PHA opens the waiting list.

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

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

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

- First, to a current resident who is next on the transfer list, 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 who does not have a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

PHA Policy

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 PHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either

a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family.

5-II.F. DESIGNATED HOUSING

When applicable, the PHA's policies for offering units designated for elderly families only or for disabled families only are described in the PHA's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

PART I: INTRODUCTION

This chapter outlines the U.S. Department of Housing and Urban Development's (HUD) income determination requirements for participation in the Public Housing (PH) program and provides guidance to the Public Housing Authority (PHA) in how to determine income. This chapter will:

- Define annual income and provide guidance on sources of income, assets, and deductions.
- Define adjusted income and provide guidance on specific adjusted income components; and
- Guide on determining the proper relation codes on the Form HUD-50058.

Although this chapter covers HUD requirements and provides examples of the types of income to be included and excluded, the PHA retains some flexibility in establishing local policies and procedures related to total tenant payment (TTP) calculations. For unique scenarios, it is important to remember the general rules of income determination:

- Determine the best possible estimate of adjusted income for the coming year based on the information available; and
- Document decisions, calculations, and the information used for verification in the tenant file. Chapter 7 provides policies on the verification process.

The Bethlehem Housing Authority 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 obligations under the regulations.

This chapter describes HUD's regulations and the PHA's policies related to these topics in nine parts as follows:

Part I: Introduction

Part II: Household Characteristics

Part III: Annual Income

Part IV: Annualizing and Calculating Income

Part V: Assets

Part VI: Deductions and Expenses

Part VII: Adjusted Income

Part VIII: Calculating Total Tenant Payment

Part IX: Exhibits

Exhibit 6-1: Income Exclusions

Exhibit 6-2: HUD Student Aid and Financial Assistance Resource Sheet

Exhibit 6-3: Inflationary Adjustment

PART II: HOUSEHOLD CHARACTERISTICS

6-II. Overview and Regulations

Household characteristics are important for determining annual and adjusted income, including the types of income included in the calculation, and the applicable deductions. The PHA must ensure that household characteristics are entered properly into their system of record and, subsequently, on the HUD-50058. Systems of record often assign certain calculations automatically based on the characteristics entered, so these must be entered accurately.

This section summarizes household characteristics and their impact on annual and adjusted income.

Regulations

3 24 CFR § 5.603(b)
4 24 CFR § 5.603(b)
5 24 CFR § 5.611(a)(1)
6 24 CFR § 5.609(c)(1)
7 24 CFR § 5.603(b)
8 24 CFR §§ 5.603(b), 5.611(a)(1)
9 24 CFR § 5.609(c)(11)
10 24 CFR § 5.609(c)(6)
11 24 CFR § 5.403
12 24 CFR § 5.611(a)(2)
13 24 CFR § 5.611(a)(3)
14 24 CFR § 5.403
15 24 CFR § 5.611(a)
16 24 CFR § 5.611(a)
17 24 CFR § 5.403
18 24 CFR § 5.403
20 Form HUD-50058
21 24 CFR § 5.609(c)(5)
22 24 CFR § 5.609(c)(2)
23 24 CFR § 5.603(b) 24 Form HUD-50058
25 24 CFR § 5.609(c)(2)
26 24 CFR § 5.609(c)(1)
27 24 CFR § 5.603(b)
28 Form HUD-50058 Instruction Booklet
29 24 CFR §§ 5.403,5.603; Form HUD-50058 Instruction Booklet
30 24 CFR § 5.609
31 24 CFR § 5.611

6-II.A. Dependents

A dependent is a member (except foster children and foster adults) who is under 18, a person with a disability, or a full-time student.³

The definition of “dependent” under 5.603 was revised to explicitly exclude foster children and foster adults. PHA may not provide a dependent deduction under 5.611 (a) for a foster child or foster adult.

The family head of household, co-head, or spouse cannot be dependent.⁴

- The family will receive a \$480 deduction for each dependent.⁵ This amount will be adjusted annually (Refer to Exhibit 6-3 Inflationary Adjustment)
- The income of family members under the age of 18 (including foster children) is excluded from annual income.⁶

6-II.B. Full-time Students

A family member is considered a full-time student if he or she is attending school or vocational training on a full-time basis.⁷ Full-time status is usually defined by the educational or vocational institution.

Therefore, verification with the institution where the family member is enrolled full-time is required.

Family members, other than the head, co-head, or spouse, who are aged 18 or over and are full-time students are considered dependent.

- The family will receive a \$480 deduction for each dependent.⁸ This amount will be adjusted annually (Refer to Exhibit 6-3).
- If a full-time student other than the head, co-head, or spouse receives earned income, any earned income above \$480 annually will be excluded from annual income.⁹ This amount will be adjusted annually (Refer to Exhibit 6-3)

If the head, co-head, or spouse is a full-time student and receives earned income, the full amount of their earned income will be included in the annual income.

For any student receiving financial assistance under Section 479B of the Higher Education Act (HEA) of 1965, as amended, paid to the student or educational institution, including the head, co-head, or spouse, the full amount of assistance is excluded from annual income.¹⁰

For any student receiving other financial assistance, the PHA must verify and determine that the other student's financial assistance is for the student's actual charge to determine what is included in annual income or excluded. Refer to Exhibit 6-1 and Exhibit 6-2.

6-II.C. Elderly Families

Elderly families are families in which the head, co-head, or spouse is 62 years or older. An elderly family may include one or more people aged 62 or older living with a live-in aide. ¹¹

- Elderly families receive a \$400 \$525 deduction from annual income. ¹² This amount will be adjusted annually (Refer to Exhibit 6-3)
- Elderly families may receive a deduction for unreimbursed health and medical care expenses equal to the amount by which the expenses exceed 3% 10% of the family's annual income.¹³

6-II.D. Disabled Families

Disabled families are families in which the head, co-head, spouse, or sole member is a person with a disability.¹⁴

- Disabled families receive a \$400 \$525 deduction from annual income. This amount will be adjusted annually (Refer to Exhibit 6-3)
- Disabled families may receive a deduction for the sum of the following more than 3% 10% of annual income—
 - o unreimbursed health and medical care expenses,
 - o unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member with a disability when necessary to enable any family member to be employed if the deduction is less than the earned income of family members 18 and over who can work because of the attendant care or apparatus.
- Disabled families receive a \$480 deduction for each dependent.¹⁶ This amount will be adjusted annually (Refer to Exhibit 6-3)

To be eligible for certain deductions, the family member's disability status must be verified.¹⁵

If the disability is obvious, readily apparent, or already known, the PHA cannot require verification of the disability. If the disability is not apparent or is not already known to the PHA, the PHA may verify that the person has a disability but must request only information that is necessary to make the determination. The PHA must not inquire about the nature or extent of any disability. 24 CFR § 5.611(a)

6-I.E. Live-in Aides

Elderly, near-elderly, and disabled households may be eligible to have a live-in aide as a reasonable accommodation.¹⁷ A live-in aide is a person who lives with one or more elderly persons, near-elderly persons, or persons with a disability, and who:

- (1) is determined by the PHA to be essential to the care and well-being of the person(s);
- (2) is not financially responsible for paying bills for or sharing resources to support the tenant; and
- (3) would not be living in the unit except to provide necessary supportive services.¹⁸

The live-in aide as well as their children are coded as “L” on the HUD-50058. The live-in aide and the live-in aide’s family residing in the unit are considered household members but not family members.¹⁹ The live-in aide must be coded properly on the HUD-50058 to ensure that their income and characteristics are not displayed on the tenant family’s EIV Income Report.²⁰

- The live-in aide’s income is not included in annual income and the household is not eligible for any deductions based on the live-in aide’s characteristics.²¹

The household includes everyone who lives in the unit. Household members are used to determine unit size. The family includes all household members **except** live-in aides foster children and foster adults. Family members are used to calculate subsidies and payments.

6-II.F. Foster Care Children and Adults

New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

The final rule establishes definitions for “foster adult” and “foster child.”

A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a **foster adult** is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any competent jurisdiction. A **foster child** is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., a public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered family members and must not be included in calculations of income for eligibility and rent determination purposes. **However, foster adults/children are considered household members and must be included when determining unit size** or subsidy standards based on established policies.

The definition of “dependent” under § 5.603 was revised to explicitly exclude foster children and foster adults. **PHAs may not provide a dependent deduction** under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, **payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses** used in the determination of annual income.

Reasonable unreimbursed **child-care expenses** (as defined in § 5.603) **for foster children under 13 years of age may be deducted** from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency).

PHAs may use their discretion to establish permissive deductions under 24 CFR 5.611(b) related to foster children and foster adults – for example, **to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted** from annual income, so long as the expenses are paid from the elderly or disabled family’s annual income (and not another source, such as a stipend from a child welfare agency).

Families may be eligible to continue to receive the **childcare expense deduction**, under a **hardship exemption**, when the unreimbursed childcare expense is **for the care of a foster child under the age of 13**, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency). See HUD’s Notice PIH 2023-27 Attachment C (paragraph C.5) (Childcare Expenses Deduction and Hardship Exemption to Continue Childcare Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child 55 or adult in another household and receiving consideration in family’s unit size.

PHA Discretion: None

PHA Policy

Refer to Chapter 6-VI.H. for the policy on permissive deduction.

6-II.G. Relation Codes on the HUD-50058

Certain household characteristics are coded on line 3h under the “relation code” of Form HUD-50058, which is a module of HUD’s Inventory Management System/PIH Information Center (IMS/PIC). The relation codes must be entered accurately since a household member’s relation or characteristics may affect the family’s adjusted income as described in the sections above.²⁸ Below provides information about each relation code, including the definition of the code, the effect on annual income, and the effect on expenses and deductions. Some private market systems of record assist PHA staff by automatically applying certain deductions or excluding income from certain family members based on their characteristics

For Household members who are considered members:

Relation Code: H - Head of Household (HOH)

Definition: The one adult member of the household, designated by the family or by PHA policy as the head of household, who is wholly or partly responsible for rent payment. ²⁹ See Chapter 3, 3-II.C. Head of Household.

Effect on Annual Income: All of this person's income must be counted unless the source of income is specifically excluded.³⁰ Applicable

Deductions: If the HOH (or the co-head or spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$400 \$525 deduction from annual income. This amount will be adjusted annually (Refer to Exhibit 6-3). An Elderly/Disabled family is also eligible to deduct health and medical and/or attendant care expenses as applicable.³¹

Relation Code: S – Spouse

Definition: The marriage partner of HOH.²⁹ See chapter 3, 3-II.D.

Effect on Annual Income: All of this person's income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If the HOH (or the co-head or spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$400 \$525 deduction from annual income. This amount will be adjusted annually (Refer to Exhibit 6-3). An Elderly/Disabled family is also eligible to deduct health and medical and/or attendant care expenses as applicable.³¹

Relation Code: K – Co-head

Definition: An individual in the household who is equally responsible for the lease with the HOH. Indicate either a spouse or a co-head, but not both. A co-head never qualifies as a dependent. However, a co-head may be under 18 years old if declared an “emancipated minor” as many States will allow an emancipated minor to sign a lease.²⁹ Note: In Pennsylvania, there is no general emancipation statute. Therefore, you must be 18 or older to sign a contract that is binding due to legal proceedings in court. See Chapter 3, 3-II.D.

Effect on Annual Income: All this person's income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If the HOH (or the co-head or spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$400 \$525 deduction from annual income. This amount will be adjusted annually (Refer to Exhibit 6-3). An Elderly/Disabled family is also eligible to deduct health and medical and/or attendant care expenses as applicable.³¹

Relation Code: A – Other Adult

Definition: A member of the household (excludes foster adults), other than the head, spouse, or co-head, who is 18 years of age or older on the effective date of action (line 2b), regardless of disability status. ²⁹ See Chapter 3, 3-II.D.

Effect on Annual Income: All this person’s income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If a member marked as “other adult” is a person with disabilities, the member will be considered a dependent.

Relation Code: E – Full-time Student 18 Years of Age or Older

Definition: A member of the household, other than the head, spouse, co-head, or foster child or adult, 18 years of age or older on the effective date of the action (line 2b) who carries a subject load considered full-time student under the standards and practices of the educational institution attended.²⁹

Effect on Annual Income: Earned income is counted as \$480.³⁰ This amount will be adjusted annually (Refer to Exhibit 6-3).

Applicable Deductions: Considered dependents and the family will receive a \$480 deduction for each dependent.³¹ This amount will be adjusted annually (Refer to Exhibit 6-3).

Relation Code: Y – Other Youth Under 18 Years of Age

Definition: A member of the household (regardless of disability status), who is under 18 years of age on the effective date of action (line 2b) and is not a foster child.²⁹

Effect on Annual Income: Earned income is not counted. Benefits income received by one of the children is counted.³⁰

Applicable Deductions: Considered dependents and the family will receive a \$480 deduction for each dependent. This amount will be adjusted annually (Refer to Exhibit 6-3).

For Household members who are not considered members:

Relation Code: F – Foster Adult and Foster Child – Regulation 24 CFR 5.603

Definition: The final rule establishes definitions for “foster adult” and “foster child.

A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state. In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court, of competent jurisdiction. A foster child is defined as a member of the household who meets the definition of a foster child under the state law. In general, a foster child is placed with the family by an authorized placement agency (e.g. public child welfare agency) or by judgment, decree, or other order of any court, of competent jurisdiction. Foster adult/children are not considered family members and must not be included in calculation of income for eligibility and rent determination purposes. However, foster adults/children are considered household members and must be included when determining unit size or subsidy standards based on established policies.

Effect on Annual Income: Payments received by the family to care for foster children or foster adults are not counted as income. Income received by or on behalf of foster children/adults is not counted as income.³⁰

Applicable Deductions: Not considered dependent. The household is not eligible for dependent deductions. Reasonable unreimbursed childcare expenses (as defined in 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed childcare expense for the care of the foster child is paid from the family’s annual income (and not another source, such as stipend from a child welfare agency).

Relation Code: L – Live-in Aide

Definition: A person who lives with an elderly person or person with disabilities and who: (1) is determined by the PHA to be essential to the care and well-being of the person(s); (2) is not obligated to support the person(s); and (3) would not be living in the unit except to provide necessary supportive services. Children of live-in aides are also marked as “L” on the Form HUD-50058.29 See Chapter 3, 3-II.G.

Effect on Annual Income: Income of live-in aides or their families is not counted as income.³⁰

Applicable Deductions: The household is not eligible for any deductions or expenses on behalf of live-in aides or their families.³¹

**PART III:
ANNUAL INCOME**

6-III.A. ANNUAL INCOME - Regulation 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; Includes employment income of an emancipated minor if the emancipated minor is the head of household, co-head or spouse.

(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 of real or personal property is permitted.

Withdrawal of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property.

If family has Net Family Assets less than **\$5,000**, Annual income shall include the actual income from those assets.

If the Family has Net Family Assets **more than \$5,000**, Annual income shall include the greater of the actual income derived from all Net Family Assets or percentage of the value such Assets based on the current passbook saving's rate.

(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. See Income Exclusion for treatment of delays or deferred periodic payments of social security or SSI benefits.

- If a PH family member is a payee for someone who is not a member of the PH family, the PHA **will not** include the payments in the calculation of annual income.
- If someone outside the PH family is a payee for one of the PH family members, the PHA **will include** the payments in the calculation of annual income.

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. See Income Exclusion concerning treatment of lump-sum additions as family assets.

(6) Welfare assistance payments (Temporary Assistance for Needy Families (TANF), General Assistance) received by or on behalf of family members are included.

Imputed Welfare Income: Such amounts that involves a reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, because of fraud by a family member in connection with the welfare program or because of welfare agency sanction against a family member for non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program shall be included in annual income. This limitation does not apply to the loss of welfare benefits resulting from the expiration of a lifetime limit on benefits or a durational time limit on benefits.

(7) All regular payments to the head of the household for support of a minor, or payments nominally to a minor for his support, but controlled for his benefits by the head of the household or a client family member other than the head, who is responsible for his support. And periodic and determinable allowance, such as alimony, and regular contributions or gifts received from organizations or from individuals not residing in the dwelling.

(8) All regular pay, special pay and allowances (such as longevity, overseas duty, rental allowances, allowances for dependents, etc.), received by a member of the Armed Forces who is head of the family, spouse, or other family member.

HOTMA significantly revises the annual income regulations. 24 CFR 5.609(b)

Generally, all income is included unless it is specifically excluded.

The new rule:

- Removes the examples of included income sources and provides a broader definition of income.
- Includes an expanded and clarified list of income exclusions.
- Also refer to HOTMA Income and Exclusions Resources Sheet for all exclusions.

Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2)

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See Attachment G (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see 6-III.B paragraphs a, b, and c, below) are included in annual income regardless of age unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not. **For example**, a family’s child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family. **However**, when a family member’s wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs must use the gross amount of the income, before the reduction, to determine a family’s annual income.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded.

Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see Part 6-V. D. below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs will not impute income from assets if the total value of net family assets is equal to or less than \$50,000 (as adjusted by inflation). See Part 6-V.B. below - (Determining Net Family Assets), below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA Discretion: None.

The following chart, **General Rules for Income and Excluded Income**, summarizes the basic types of annual income:

General Rules for Included and Excluded Income³³	
Live-in Aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster Care Children/Adults	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, Spouse, or Cohead Other Adult Family Members	<p>Earned income Included: Full amount, before payroll deductions, wages and salaries, overtime pay, commission, fees, tips, bonuses, and other compensation.</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All sources of income not specifically excluded by the regulations are included.</p>
Children under 18 years of age	<p>Earned income is excluded [24 CFR 5.609(c)(1)].</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All other sources of income, except those specifically excluded by the regulations, are included.</p>

<p>Full-time students 18 years of age or older (not head, spouse, or cohead)</p>	<p>Earned income included up to \$480/year [24 CFR 5.609(c)(11)]. This amount will be adjusted annually. Refer to Exhibit 6-3.</p> <p>Full amount, before payroll deductions, wages and salaries, overtime pay, commission, fees, tips, bonuses, and other compensation.</p> <p>Note: Include the entire amount if less than \$480 annually.</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All sources of income not specifically excluded by the regulations are included.</p>
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Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

The income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family’s calculation of annual income.

PHA Discretion: None.

Foster Children / Adults Payments

24 CFR 5.609(b)(8)

The income of foster child or adult (as defined in 24 CFR 5.403 and 5.603 are **excluded**. Foster adults and foster children are members of the household and are considered when determining appropriate unit size. However, they are not considered members of the “assisted family” in determining annual and adjusted income or net family assets; nor are the assets of foster adults or children taken into consideration for purposes of asset limitation. However, reasonable unreimbursed childcare expenses (as defined in 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed childcare expense for the care of the foster child is paid from the family’s annual income (and not another source, such as stipend from a child welfare agency).

Minors Earned Income

[24 CFR 5.609(b)(3)]

All earned income of all children under the age of 18, including foster children, is excluded.

Earned Income of Dependent Full-Time Students

Regulation: 24 CFR § 5.609(b)(14)

Earned income of dependent full-time students over the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the **first \$480** of the income earned by dependent full-time students will be **included** in the family's calculation of annual income.

The dependent deduction will be adjusted annually by the (CPI-W). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction, and the exclusion described in this paragraph.

PHA Discretion: None.

6-III.B. EARNED INCOME

Regulation: 24 CFR § 5.609(b)(1)

Full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation. Regulation: 24 CFR § 5.100 - Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

PHA Discretion: None.

PHA Policy

For Tips:

Unless tips are included in a family member's paystubs or traditional third-party, or W-2 verification, the PHA will require family members to provide verification from the employer. If an employer is unable to provide the tips information needed, the PHA will accept a signed self-certification certifying estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Other Employees' Compensation (Bonuses or Commissions)

Unless the bonuses or commissions are included in a family member's paystubs, traditional third-party verification, or W-2 form, the PHA will require family members to provide written verification from their employer stating that they do not have this information on hand. Then the PHA will accept a signed BHA format Self-Certification

of Income from the family members to be filed in the tenant's file with all other income verifications. The PHA will follow HUD's verification hierarchy. The PHA will count only the amount provided or estimated by the employer or the family to anticipate annual income from bonuses and commissions.

a) Definition of Day Laborer

Regulation: 24 CFR § 5.603(b)

Summary: A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students over the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA Discretion: None.

b) Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is an individual who qualifies as an independent contractor instead of an employee by the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered "gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractors. Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA Discretion: None.

c) Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA Discretion: None.

d) 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)].

6-III.C. Self-Employment or Operation of a Business

Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

The gross income received by a family through self-employment or the operation of a business is excluded from income. Gross income is all income amounts received into the business, before the deduction of business expenses. To determine the amount of business or self-employment income included in a family’s annual income, the net income of the business must first be determined. Net income is the “gross income amount minus business expenses” that allows the business to operate. The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS’s regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill’s calculation of annual income.

PHA Discretion: None.

PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance. PHA will calculate net income based on the verification received. The family must provide the required verifications. Refer to Chapter 7 – Verification.

6-III.D. Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months. Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires.

Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

PHA Discretion: None.

Public Housing program participants qualifying for Earned Income Disallowance or Disregard (EID) were eligible to have a portion of their earned income excluded from annual income for a maximum of 24 consecutive months.

Qualifying individuals were current program participants (applicants were ineligible) who had an increase in annual income because of:

- Employment, and they had been unemployed or experiencing “underemployment” for one or more years prior to employment. Underemployment was defined as earning less than the amount calculated at 10 hours weekly for 50 weeks at the establishment minimum wages for the applicable locality.
- An increase in earnings during participation in a self-sufficiency or job training program;
or
- Employment or an increase in earnings and the participant having received Temporary Assistance for Needy Families (TANF) benefits or services within the past six months.

For qualifying participants, PHA was required to:

Excluded the full amount of the increase in income for the initial 12 consecutive months out of the 24 total months based on the date the qualified individual became employed or experienced an increase in earned income.

Exclude at least 50% of the increase in income for the remaining 12 consecutive months out of 24 total months after the initial 12-month period. Begin the exclusion on the first of the month after the qualifying change.

PHA Policy

Since HOTMA eliminates the EID from HUD regulations, families who are receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family’s EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025

6-III.E. Training Programs

**HUD-Funded Training Programs –
24 CFR 5.609(c)(8)(i)**

All amounts received under any training program funded by HUD are excluded.⁵⁴

**Employment Training Programs
24 CFR 5.609(b)(12)(iv)**

Incremental earnings and benefits from training programs funded by HUD or qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with local government) and training of a family member as resident management staff. Excluded amounts must be received with clearly defined goals and objectives and only excluded during the participation in the program unless the amounts are excluded as Federal Financial Aide (5.609(b)(9)(i).

PHA Policy

The PHA defines a 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. 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:

- Take part in a series of sessions over a period.
- Be designed to lead to a higher level of proficiency.
- Enhance the individual’s ability to become employed.
- Have performance standards.
- Provide classroom training.
- Provide on-the-job training.
- Provide basic education.

The end of participation in a training program must be reported by the PHA's interim reporting requirements (see Chapter 9 - Reexaminations).

6-III.F. Definition of Unearned Income

Regulation: 24 CFR § 5.100

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA Discretion: None.

6-III.G. Social Security and Other Benefits Income

The gross amount of social security benefits income, before Medicare or other deductions, must be counted as income, except for specific amounts excluded under 24 CFR 5.609(c)(14).⁵⁷ If social security benefits are reduced to make up for prior overpayments, HUD's policy dictates that PHAs count the income the Social Security Administration will provide (the amount received)—not the amount that would have been provided if no error had been made.

This policy also applies to other similar benefits as well as social security.⁵⁸ When Social Security, Supplemental Security (SSI), or veterans' disability benefits are paid in a lump sum or prospective monthly amounts because of deferred periodic payments, that amount is excluded from annual income.⁵⁹

6-III.H. Alimony and Child Support

PHAs must count as income alimony and child support amounts received, such as part of a divorce or separation agreement.⁶² HUD strongly encourages PHAs to determine in their policies what documentation is required to show what the family receives. For example, if the household has filed with the local support enforcement agency, printouts from the agency may indicate the frequency and amounts of payments received.

PHA Policy

To determine annual income from child support or alimony, the PHA will use any available information concerning alimony and child support received. The underlying goal is to determine anticipated annual income over the next 12 months.

For alimony, the PHA will accept as verification court-ordered documents of divorce or separation showing frequency and amount of payment to anticipate annual income for the next 12 months, including any printouts.

For child support, if the household has filed with the local support enforcement agency, printouts from the agency showing the frequency and amounts of payments received will be accepted as verification to anticipate annual income for the next 12 months. Families are not required to undertake independent enforcement action.

If a family reports not receiving support payments, and the support printout shows that no payments have been made in the past 30 days, the PHA will not include child support in annual income.

If a family reports that they are receiving support payments and the printout shows that payments have been made in the last 3 months, regular or irregular payments, the PHA will take the total amount paid in the past 3 months and annualize by multiply by 4.

Any lump-sum payment over \$1000 in the past 3 months will be removed before annualizing and then added back to the annualized amount. When determining the last 3 months of payments, the PHA will look at the date the printout was printed to determine a fair average of 3 full months of payments. For example, if the printout is dated May 25, the PHA will not use any payments made in the month of May, rather it will use the months of April, March, and February. Nevertheless, since child support can be one of the most difficult types of income to calculate, the PHA will use any currently available information from the local support enforcement agency printout, or court ordered.

Note: If a support payment printout is not available due to being a new or recent support court order, the PHA will use the court order document provided by the tenant showing the amount and frequency of payments. The tenant is responsible for reporting any future changes.

For voluntary support, the family must provide the name, address, and phone number of the child's parents paying the voluntary support for the PHA to verify the information by sending a PHA format Voluntary Support Verification. If efforts to verify by mail, email, or phone call have failed, then the family is to provide a self-certification to anticipate annual income or to remove voluntary support from the family annual income.

6-III.I. Lump Sum Payment from Unemployment or Welfare Assistance

Generally, lump sum payments received by a family, such as insurance payments and settlements for personal or property losses are considered assets, not income.⁴⁶

Lump sum payments caused by delays in processing periodic payments, such as **unemployment or welfare assistance, are included** as income.⁴⁷ However, any portion of the lump sum that is paid for a period before admission in the public housing program would not be counted as annual income.

6-III.J. In-Kind Income

In-kind Income to pay bills will be considered income. See Chapter 6, Part IX: Exhibit 6-1 Income Exclusions – 1-f. Nonrecurring Income and Chapter 7, Verification, Part: I. 7-I.V. Zero Income Reviews.

6-III.K. Withdrawal from Investments as Income

PHAs must include periodic payments from investments as income except to the extent the withdrawal is reimbursement of cash or assets invested by the family.⁴⁸ For example, if a tenant invested \$5,000 to purchase an annuity which is now worth \$20,000 and is now receiving monthly installments, income would not be counted until the full \$5,000 amount invested has been reimbursed.

6-III.L. Welfare Assistance

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

PHA Policy

To determine annual income, the PHA will accept current tenant-provided third-party notice from the local Department of Welfare showing benefit amounts received from assistance such as TANF or General Assistance or will accept current printouts of benefits from PA COMPASS.

6-III.M. Welfare Benefit Reduction 24 CFR 5.615

The PHA may not include imputed welfare income at the time of admission if the family was not assisted at the time the sanction was imposed.

However, if an assisted family commits welfare fraud or has been sanctioned due to non-compliance with economic self-sufficiency requirements, the PHA may not reduce the family rent.

Welfare benefit reduction affects families who receive welfare assistance or other public assistance benefits from a State or other public agency under a program for which Federal, State, or local law requires that members of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Imputed welfare income is the amount of annual income not received by a family because of a specified welfare benefit reduction, that is included in the family's annual income to determine rent.

Specified welfare benefit reduction does not include a reduction or termination of welfare benefits:

- At the expiration of a lifetime or other time limit of welfare benefits,
- Because a family member is not able to obtain employment, even though they have complied with requirements, or
- Because a family has not complied with other welfare agency requirements.

Therefore, at the request of the PHA, the Welfare agency will inform the PHA of writing the amount and term of the specified benefit reduction, the reason for the reduction, and any subsequent changes in the term or amount of such benefit reduction.

The PHA will use this information to determine the amount of imputed welfare income to be entered into the HUD50058.

A family's annual income includes the amount of imputed welfare income plus the total amount of other income.

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

PHA Policy

PHA will comply with all welfare benefit reduction requirements. PHA will verify all reported welfare reductions to determine the cause of reduction and the imputed welfare income, if applicable.

The PHA will request written verification from the welfare agency that the benefit reduction was caused by welfare fraud or non-compliance with economic self-sufficiency requirements before determining annual income or denying a family's request for a reduction in annual income in the case of a specified welfare benefit reduction.

The PHA will also verify the amount and term of the specified welfare benefit reduction.

The following are the steps the PHA will take to ensure that the requirements for the welfare benefit reduction are being carried out:

Step 1: Tenant is receiving TANF benefit of \$780 per month, but the tenant reports a decrease in income due to a welfare benefit reduction.

Step 2: If the tenant fails to provide the PHA with the notice they received from the Department of Welfare stating the reason for the welfare benefit reduction, the PHA must follow up and verify in writing if the welfare benefit reduction was due to welfare fraud or non-compliance with economic self-sufficiency requirements.

Step 3: Once the PHA verifies any of these two causes, the PHA will process an interim reexamination to report these changes on the HUD50058 under the 7b income code "IW" for annual imputed welfare income, regardless of the interim policy.

Step 4: Once PHA processes HUD50058, the PHA will send the tenant a rent amendment along with a PHA format Welfare Reform Act Notice.

Step 5: PHA will then place in the tenant's certification file a PHA format "Alert Imputed Welfare Income Worksheet to monitor tenant's imputed welfare amount as the tenant continues to report changes of income.

Step 6: The amount of imputed welfare income is offset by the amount of additional income a family receives after the time the sanction was imposed.

Verifying a Specified Welfare Benefit Reduction: PHA must request written verification from the welfare agency that the benefit reduction was caused by noncompliance with economic self-sufficiency requirements or welfare fraud before determining annual income or denying a family's action in annual income in the case of a specified welfare benefit reduction.

The PHA also must verify the amount and term of the specified welfare benefit reduction.⁶⁶ HUD strongly encourages PHAs to make good faith efforts to enter into cooperation agreements with local welfare agencies, not only to obtain the necessary information regarding welfare sanctions, but also to target economic self-sufficiency and other services to families. Any family whose assistance is adversely affected because of PHA enforcement of these requirements must be notified of their right to an informal hearing.⁶⁷

Calculating Imputed Welfare Income

The amount of annual income not actually received because of a specified welfare benefit reduction but included in annual income for determining rent is called imputed welfare income.

When a specified welfare benefit reduction occurs, the family's annual income includes the amount of the imputed welfare income plus the total amount of other annual income.⁶⁸

If the family was not an assisted family at the time of the sanction, the PHA must not include imputed welfare income in annual income at admission.⁶⁹ Refer to the below Table and Examples.

The table below breaks down the possible reasons for benefit reduction or termination and whether imputed welfare assistance needs to be included in annual income.

Reasons for welfare benefits reduction or termination:	Is imputed welfare assistance included in annual income? ⁷⁰
Due to a limit of how long benefits may be received.	No, imputed welfare assistance is not included in income
The family was not able to obtain required employment, however, the family complied with welfare program economic self-sufficiency requirements	No, imputed welfare assistance is not included in income.
The family has not complied with other welfare agency requirements. For example, the family did not attend their welfare recertification appointment	No, imputed welfare assistance is not included in income.
The family committed welfare fraud.	Yes, imputed welfare assistance must be included in income
The family did not comply with economic self-sufficiency requirements	Yes, imputed welfare assistance must be included in income

⁷¹Income from other sources received by the family after the sanction is imposed offsets the amount of imputed welfare income.

For example, if the family has found employment in the time between the sanction and the income certification, the new employment income would be subtracted from the imputed welfare income. If the new employment income were to be equal to or greater than the imputed welfare income, there would be no need to include the imputed welfare income in the determination of annual income.

Imputed Welfare Income Examples			
	Scenario #1	Scenario #2	Scenario #3
	An assisted family is receiving \$500/month in welfare benefits (TANF). Benefits stop due to welfare fraud.	An assisted family is receiving \$500/month in welfare benefits (TANF). Benefits are reduced to \$200/month due to noncompliance with economic self-sufficiency.	A previously unassisted family was receiving \$500/month in welfare benefits (TANF). Benefits stop due to fraud.
TANF Income before specified welfare benefit reduction	\$500	\$500	\$500
Current TANF Income	\$0	\$200	\$0
Imputed Welfare Income	\$500	\$300	\$0
Total Monthly Income	\$500	\$500	\$0
	A family member begins working, earning \$200/month	A family member begins working, earning \$200/month	A family member begins working, earning \$400/month
TANF Income	\$0	\$200	\$0
Employment Income (offsets imputed welfare income)	\$200	\$200	\$400
Imputed Welfare Income (Prior imputed welfare income – employment income)	\$300 (\$500 - \$200)	\$100 (\$300 - \$200)	\$0 (\$0) no imputed welfare income as sanction imposed prior to the family receiving housing assistance
Total Monthly Income	\$500	\$500	\$400

6-III.N. Income for Temporarily and Permanently Absent Family Members

PHAs must count all income of family members approved by the PHA to reside in the unit, even if they are temporarily absent.⁴²

It is important for the PHA to make a distinction between permanent and temporary absence and define what constitutes permanent and temporary absence in its policies.

For example, the absence of a family member employed at a temporary job on the other side of the State may be considered temporary, while an absence of a family member because of a divorce action may be considered permanent. If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted.

Public Housing program regulations do not define “temporarily or permanently absent” or specify a timeframe associated with a temporary versus a permanent absence.

PHAs have broad discretion to define this and must include all associated definitions in their ACOP.

PHA Policy

The head of household, spouse, or co-head who signed the lease with the PHA are required to report all changes in their family composition within 10 days of occurrence. Therefore, they are required to determine if a family member from their assisted household is temporarily or permanently absent from their household.

If the family member is considered temporarily absent from the household due to short or long-term temporary jobs out of the area, or temporarily confine to a professional medical facility, the family member will still be consider a family a member and their income will be counted in the family’s annual income, unless the head of household, spouse, or co-head request to delete family member from the household and provides verification from a third-party source.

The PHA will count the income of family members approved to live in the unit, even if the family member is temporarily absent from the unit. 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 public housing member.

With specific exception, 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 public housing member. Exceptions are discussed below.

6-III.O. Absent Students

PHA Policy

When a family member attends schools away from home, that individual will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household, or the family declares that the students has established a separate household. In the case of students living in off-campus student housing this is not considered to be establishing a separate household.

The head, spouse, or co-head must request absent students to be deleted from the household and provide proof of residency.

6-III.P. Absences Due to Placement in Foster Care

Children temporarily absent from home because of placement in foster care are considered members of the family [24 CFR 5.403]. Any income they may receive will be included in the family's annual income, unless the family provides verification from the third-party income source that the family is no longer receiving the income source.

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member and the child's income will continue to be included in the family's annual income, unless family provides verification that the family is no longer receiving income for the child, such as SSI, SS, or child support.

6-III.Q. Absent Head, Spouse, or Co-Head, or Adult

PHAs have discretion to determine when or if a family member should be removed from the lease based on the length of time, they have been absent from the unit. HUD regulations do not define "temporarily or permanently absent" or specify a timeframe associated with a temporary versus a permanent absence. PHAs have discretion to define this and the policy choices in the ACOP. For example, the best practice is to consider the household member permanently absent after 180 consecutive days.

PHA Policy

An employed head, spouse, or co-head, or adult absent from the unit for more than 180 consecutive days due to employment will continue to be counted as a family member. If any of these adults family member absent from the unit for more than 180 consecutive days due to temporarily in a professional medical facility, the family member will continue to be considered an assisted family member and their income will be counted in the family's annual income, **unless** the head, spouse, or co-head request that the family member be deleted from the household.

If a head, spouse, or co-head will be absent from the household for more than 180 consecutive days, that individual is required to report this to the PHA within 10 days of the date the individual intends to be absent. All parties who signed the lease are required to inform the PHA if they will be absent from the household temporarily or permanently.

If temporarily absent, their income will be counted in the family's annual income, unless they can demonstrate a reason why their income should not be counted. For example, they are temporarily in a nursing facility and their social security benefit is required to go to the nursing facility.

If the head, spouse, or co-head, fails to report their absent to the PHA as required above, and have been out of the household for more than 180 consecutive days, the remaining party who signed the lease, has the responsibility to consider the absent individual permanently absent from the household, and request for the absent individual to be deleted from the household and request a lease revision.

Nevertheless, the PHA will first attempt to contact the absent head, spouse, or co-head, to confirm absences. PHA will maintain tenant's files well documented.

For verification of deletion from household for an adult:

The PHA will require a family to provide a current PA Driver's License, or PA ID card showing their change of address, letter from their income source showing change of address if applicable, and a residency lease if applicable.

PHA will use tenant self-certification from the head, co-head, or spouse, as a last resort.

6-III.R. Family Member Confined for Medical Reasons

PHA Policy

A family member confined to a nursing home or hospital on a permanent basis is not counted as a public housing family member. If there is a question about the status of a family member, the PHA will request verification from a licensed medical professional and will use this determination.

If the medical professional responsible cannot provide a determination as to their status of being absent from the household for medical reasons, the person will be considered temporary absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be counted as a public housing family member.

If the member is counted as a public housing family member, all income will be counted in the annual income unless the PHA receives verification that income is being forwarded directly to the medical facility such as social security, SSI, etc.

6-III-S. Absences Due to Incarceration

PHA Policy

If a family member is expected to be incarcerated for more than 60 days, that person will not be considered a family member and must be deleted from the household. If the individual intends to return to the unit following incarceration, the individual is subject to eligibility and screening requirements discussed in the chapter on eligibility. This applies also to the head and co-head of the household. All income will be included in the family's annual income **such as social security, pension, etc.**

6-III-T. Joint Custody of Children

PHA Policy

Dependents that are subject to joint custody arrangement will be considered a member of the family if they live with the applicant or family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) is claiming the same dependents as part of their family members, the family with primary custody at the time of admission or reexamination will be able to claim the dependents and the dependent's income will be counted in the family's annual income, regardless if one parent is an assisted family, and the other parent lives in a private sector outside of housing assistance. If there is a dispute about which family should claim, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation. The PHA will make any determination on the best available information.

6-III.U. Caretakers for Remaining Minor Child

PHA Policy

The approval of a caretaker is subject to the PHA's screening criteria. If neither a parent nor a designated guardian remains in a household, the PHA will take the following actions: The PHA may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established. Once established, the PHA may add the new guardian as the new head of household in accordance with its screening policies. 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 have 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 PHA 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. At the discretion of the PHA, for the safety of the minor child, the PHA will seek assistance from the local Children and Youth Department agency to report the remaining child or children left in the household without a legally designated caretaker/guardian.

**PART IV:
ANNUALIZING AND CALCULATING INCOME**

6-IV.A. Annualizing Income –

24 CFR § 5.609(a)(2) and (d) 73 24 CFR § 960.253(e)

Once all household characteristics and sources of income are known and verified, the PHA must anticipate the family’s income over the next 12 months.⁷²

PHAs **may choose** among several methods of annualizing income to determine the anticipated annual income.

Policies for determining annual income are to be included in the agency’s ACOP and PHAs must inform the families of the income calculation method that would be applied to them so that the family can plan accordingly.⁷³

The following table describes popular acceptable methods of calculating annual income and when they are most appropriate to use.

Calculation Method	Description	When to Use
Year-to-date	Divide the total gross YTD income into the most recent paystub by number of pay periods as of date on paystub then multiply by total number of pay periods in a full year. Check the frequency table to determine the number of pay periods in a year.	Participants have held the same job since before January 1 st of the current year, and the most recent paystub is dated after March 1 st of the current year. There are fluctuations in the participants’ income throughout the year.
Average gross pay	Take the average gross pay on the most recent paystubs (at least 2)	When participants’ pay varies between pay periods, has multiple jobs or schedule includes periodic mandatory overtime and participant has not the same job since January 1 st of the current year.
Base times (x) rate	Take the estimated number of hours from the offer letter, contract, or employment verification (if range of hours provided, take the average) and multiply it by the verified hourly rate	When a Participant has started a new job and does not have enough pay stubs to estimate income.

	to determine the amount per pay period. Then multiply by the number of pay periods in a full year. Check the frequency table to determine the number of pay periods in a year.	
Irregular	Gather income information from all sources over a specific time from (all pay from a one-month or three-month period depending on frequency). Average the among over that timeframe and annualize it over a full year (i.e. average pay over 3 months multiplied by 4 would provide an average for the full year.	When a participant has a temporary, variable or seasonal schedule, has worked sporadically throughout the year, has a combination of any of the above or an on-call or otherwise unpredictable schedule or rate of pay (i.e. day work/construction work based on project need or ride-share driver)
<u>Frequency of Pay</u>	Number of Pay Period Annually:	
Weekly	52	
Bi-weekly	26	
Bi-monthly	24	
Monthly	12	

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to redetermination at the end of the shorter period.⁷⁴

PHA Policy

The PHA opted to use frequency of pay. The PHA’s goal is to anticipate the unearned annual income and earned annual income.

Concerning earned income, the PHA goal is to anticipate earned annual income to be received and comply with HUD’s minimum two consecutive paystubs requirement of the Third-Party Verification Techniques. However, if two (2) paystubs do not reflect an accurate accounting of the member’s annual income, the PHA shall request more paystubs.

When two current and consecutive pay stubs are not available, the PHA will project income based on the information from a traditional written third-party verification form or the best available information as noted in the above table that describes popular acceptable methods of calculating annual income and when they are most appropriate to use.

When two current and consecutive paystubs are available, PHA will use the minimum of the required two paystubs to anticipate the gross annual wages to be received. PHA will

calculate the current and consecutive gross amounts shown on the paystubs, according to frequency of pay weekly, bi-weekly, semi-monthly, or monthly pay. The PHA will use calculating tape and attach it to the verifications. This is straightforward.

However, if the paystubs or traditional written third-party verification indicates partial pay, the PHA will discuss it with the tenants and require a minimum of three (3) current and consecutive paystubs and use the second and third paystub to determine the average anticipated gross annual income from wages.

The PHA's goal is to take into consideration any known factors that would influence a fair and reasonable expectation of tenants' gross annual wages for the coming year.

If a family reports hours decreased, the tenant will have to provide four current and consecutive paystubs to determine decreased anticipated income, or a letter from their employer noting the changes in hours worked per week, the current pay rate, and an effective date of decreased hours.

Note: When using traditional third-party verification, BHA will **not** use the greater amount between gross amounts actually paid and the listed hourly rate with hours worked per week. BHA will use the actual gross amounts paid to take an average to anticipated annual income.

6-IV.B. New Admissions and Interim Calculation

Regulations:

24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

PHA Policy

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexamination, the PHA will use anticipated income as required above.

6-IV.C. Annual Reexaminations Calculation

PHAs need to calculate amounts anticipated to be received from a source outside the family during the 12-month period following admission or the annual reexamination effective date (24 CFR § 5.609(a)(2)).

The Enterprise Income Verification (EIV) system is used to validate (not calculate) tenant-reported income information and may be a useful tool to estimate future income-based information by validating recent wage, unemployment, and social benefit activities. PHAs must use EIV including pulling the family's Income Report within certain timeframes of reexaminations and new admissions

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to redetermination at the end of the shorter period (24 CFR § 5.609(d)).

For example, if the family member has a seasonal schedule and only works during the summer months, the PHA may choose to annualize income based on a 4-month period to cover the summer months. The PHA will need to redetermine income at the end of the 4-month period.

PHAs may choose among several methods of annualizing income to determine anticipated annual income. These policies need to be included in the ACOP, and PHAs must inform the families of the income calculation method that would be applied to them so that the family can plan accordingly (24 CFR § 960.253(e))

PHA Policy

Anticipating Annual Income: The PHA will calculate anticipated annual income by adding the income the family expects to receive during the 12-month period following the family's admission or annual recertification effective date. Accordingly, annual income is calculated by projecting current income forward for a 12-month period.

Seasonal Income: If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) or the PHA believes that past income is the best available indicator of expected future income, the PHA will annualize the income anticipated for a shorter period, subject to redetermination at the end of the shorter period.

Known Changes in Income: If the PHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income to the appropriate part of the 12-months.

Regulations:

24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

The final rule revises the standards for income calculation during annual reexamination. PHAs have the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. See HUD’s Notice PIH 2023-27 Attachment J (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., “Safe Harbor”) of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see HUD’s Notice PIH 2023-27 Attachment I (paragraph I.8) (Streamlined Income Determination)), PHAs must first determine the family’s income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made.

Any change of income since the family’s last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA’s policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered.

Income from assets is always anticipated, irrespective of the income examination type. A change in income, for example, may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. PHA will look at the entirety of the family’s unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See 6-IV.D. below for more information on the COLA.

The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance. The PHA reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD-50058; and
- What the family certified to on the PHA current annual reexamination paperwork for prior-year income, if available.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If an interim reexamination was performed within the reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim reexamination to determine the family's rental assistance. The PHA may use the verification obtained from the interim reexamination for this step.
- If the PHA did not perform an interim reexamination or if the family reported that there have been changes since the last reexamination, move to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, use current income.

- Family reports their income for the prior year and whether there have been permanent changes. If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD-50058.

For example, the PHA could use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4 documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA, for example:
 - o Year-end statement

- o Pay stub with year-to-date amount
- o Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See Attachment J (paragraph J.5) (Verification Hierarchy) of the HUD Notice PIH 2023-27 for information about verification.

PHA Policy

PHA opted not to use the “safe harbor” income verification or the streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b).

PHA will follow the requirement to first determine the family’s income for the previous 12-month period and use this amount as the family income for annual re-examinations and will use any adjustments to reflect current income.

Any change of income since the family’s last annual reexamination, including those that did not meet the 10% threshold to process an interim reexamination of family income in accordance with the PHA’s policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), will be considered. PHA will also use income from assets that are always anticipated, irrespective of the income examination type. For annual reexaminations, the PHA will refer and use examples below.

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

<p>Background: Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 3.2 percent.</p>	
<p>Last 3/1/2023 Annual Reexamination</p>	
<p>Ruby: Wages: \$30,000</p>	<p>Georgia: SSI: \$10,980 (\$915 monthly)</p>
<p>The EIV report pulled on 12/15/2023</p>	
<p>Ruby: Wages Total: \$33,651 Quarter 3 of 2023: \$8,859 (City Public School) Quarter 2 of 2023: \$8,616 (City Public School) Quarter 1 of 2023: \$8,823 (County Public School) Quarter 4 of 2022: \$7,353 (County Public School)</p>	<p>Georgia: SSI Total: \$10,980 2023 benefit \$915 monthly</p>
<p>Income Reported on Reexamination Application</p>	
<p>Ruby: Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)</p>	<p>Georgia: SSI benefits: \$10,980 (no changes in income)</p>
<p>Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 wages in EIV are accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.</p>	<p>Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by 3.2-percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$29.28 (\$915 x 0.032) New gross SSI benefit: \$11,331.36 (\$944.28 x 12 months)</p>
<p>If Ruby did not agree with the annual wages reported in EIV, the PHA would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of HUD's Notice PIH 2023-27.</p>	
<p>Summary of Annual Income (as reported on the HUD-50058)</p>	
<p>Ruby (Head of Household): Other Wage: \$33,651</p>	<p>Georgia (Other Youth Under 18): SSI: \$11,331.36</p>
<p>Meyers Family Total Family Income: \$44,987</p>	

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV
But Family Disagrees with EIV**

<p>Background: Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual re-examination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in income earned because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.</p>
<p style="text-align: center;">5/1/2023 Annual Reexamination</p> <p>Wages: \$28,000</p>
<p style="text-align: center;">Last 7/1/2023 Interim Reexamination</p> <p>Wages: \$7,500</p>
<p style="text-align: center;">The EIV report pulled on 1/15/2024</p> <p>Wages Total: \$18,271</p> <p>Quarter 3 of 2023: \$2,500 (Viking Bakery)</p> <p>Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)</p> <p>Quarter 2 of 2023: \$1,300 (Sasha's Sweets)</p> <p>Quarter 2 of 2023: \$584 (Larry's Concessions)</p> <p>Quarter 2 of 2023: \$2,401 (Viking Bakery)</p> <p>Quarter 1 of 2023: \$6,500 (Sasha's Sweets)</p> <p>Quarter 4 of 2022: \$600 (Sasha's Sweets)</p> <p>SS/SSI: No history of benefits.</p>
<p style="text-align: center;">Income Reported on Reexamination Application</p> <p>Wages: \$0 (permanent change; no longer received)</p> <p>Social Security: \$14,400 (\$1,200 monthly)</p> <p>Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.</p>

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

Example 3: Calculating Annual Income at Annual Reexamination

Background: Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed, because the reduction in child support income for Samantha’s daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold (see HUD’s Notice PIH 2023-27 Attachment I, paragraph I.1). Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: \$28,000	Wages: \$8,250
VA disability pension: \$12,000	Other non-wage income: \$3,000 (Go Fund Me Online fundraiser)
Child support: \$2,400	

The EIV report was pulled on 9/16/2024.

Samantha:	Fergus:
Wages Total: \$0 (no wages data reported since Q1 2023)	Wages Total: \$8,600
	Quarter 1 of 2024: \$2,100 (Ian’s Fish ‘n’ Chips)
	Quarter 1 of 2024: \$500 (Claire’s Healthcare Supplies)
	Quarter 4 of 2023: \$1,000 (Claire’s Healthcare Supplies)
	Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: \$3,200 (Ivar’s Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian’s Fish ‘n’ Chips for the annual reexamination. The family supplied the supporting document noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Samantha: Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)	Wages: \$6,000
VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)	
Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)	

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058/HUD).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing the COLA adjusted monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined.

Calculating Fergus's Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips.

The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV.

To complete Step 3, the PHA must do the following: resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000.

The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on two current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus's Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The PHA must verify and adjust to reflect current non-wage income.

The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

PHA Policy

The PHA will comply with calculation requirements for annual reexamination calculations.

At Annual Reexamination, when EIV is obtained and the family does not dispute the EIV employer income, the PHA will use EIV income data, as noted in the **above Example 1** Calculating Annual Income at Annual Reexamination Using EIV.

When the family does not agree with the EIV employer income and provides current paystubs, PHA will use current tenant-provided documents to project annual income, as noted in the **above Example 2 and 3** Calculating Annual Income at Annual Reexamination using EIV.

When accepting third-party verification according to regulations, the family must provide an original or authentic document generated by a third-party source dated within 90 days of the date received. For fixed income sources, a statement dated within the appropriate benefit year is acceptable documentation. PHA may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

For new sources, unless the family provided a third-party verification, the PHA will determine income based on the information from a traditional written third-party verification form or the best available information. The PHA will obtain verification in accordance with HUD's verification hierarchy requirements on chapter 7.

The PHA will review and analyze current data to anticipate annual income. In all cases, the family certification file will be documented to support all entries in the HUD50058.

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases, the family may present

information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income. When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the 90 days of the reexamination interview date.

6-IV. D. Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics.

The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA is processing her annual reexam (in November 2023), which is effective 1/2/2024. The PHA must determine annual SS income as follows:

- **Current benefit amount: \$500**
- **COLA: \$18.00 (\$500 x 3.6 percent [or 0.036])**
- **New gross SS benefit effective 01/01/2024: \$518.00 (\$500 current benefit + \$18 COLA)**
- **Annual SS income effective 1/1/2024: \$6,216 (\$518x12)**

PHA Policy

As required, effective the day after SSA has announced the COLA, PHA will factor in the COLA for all annual reexaminations and interims of family that have not yet been completed and will be effective January 1 or later of the upcoming year.

6-IV.E. De-Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

PHAs will not be considered out of compliance solely due to de-minimis errors in calculating family income. De minimis errors occur when a PHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs will not be issued as a finding by HUD for de minimis errors in income calculation.

As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

PHAs must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged because of the PHA's de minimis error in income determination.

PHA Policy

As PHA becomes aware of the existence of an income calculation error, PHA will correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs will take corrective action to credit or repay a family if the family was overcharged rent, including when the PHA makes de minimis errors in the income determination. Tenants will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

The PHA will repay or credit a tenant the amount they were overcharged because of the PHA's de-minimis error in income determination. If the amount due to the family is \$500 or more, the PHA will distribute a check to the tenant, unless there is a delinquent balance due on the tenant's account. The delinquent balance will be paid first. If the tenant pays no rent amount due to being on a negative rent status, the PHA will distribute a check regardless of the amount, unless the tenant requests that the amount be credited to their account.

PART V: ASSETS

6-V.A. ASSET LIMITATION

Regulations 24 CFR §§ 5.100 (real property); 5.603; and 5.618

The Public Housing Authority must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation (see paragraph A.1 and A.2 below).

PHAs have discretion with respect to application of the asset limitation at annual and interim reexamination, as discussed in paragraph below. For reexaminations, paragraph A.1 below does not apply to PHAs who establish total nonenforcement policies as described in paragraph below.

A.1 Asset Limitation

This section describes the asset limitation. The enforcement options are described in subsequent paragraphs A.2. and A.3. A family is out of compliance with the asset limitation if they have either of the following:

- **Net family assets that exceed \$100,000, as adjusted annually for inflation.**

Definition of Net family assets: Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see below section V. B. - Determination New Family Assets and **Exclusions from Net Family Assets**). HUD will adjust this amount annually in accordance with the Consumer Price Index—Urban Wage Earners and Clerical Workers (CPI–W). See Exhibit 6-3 in this chapter - Inflationary Adjustments) for more information on inflationary adjustments.

In determining whether the net family assets for a family exceed \$100,000 (as adjusted for inflation), a PHA may accept a declaration from the family that their net assets do not exceed \$50,000 (as adjusted for inflation), without needing to further verify that declaration. See Chapter 7 – Exhibit - Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted by inflation). For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets. 18

- **Real property that is suitable for occupancy.**

Real property means “real property as provided under the State law in which the property is located.” Families are out of compliance if they have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

However, there are several exemptions to the real property restriction, discussed below in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation).

In determining whether the family owns real property that would make them out of compliance, a PHA may rely upon self-certification, both at the time of admission and at reexamination, from the family stating that they do not have any present ownership interest in any real property. A PHA could use a form that requests certification of the family's present ownership interest in the property and inquire about the family's legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. However, if the family owns real property, they must seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Note: Ownership of real property is relevant to the asset limitation in two distinct ways:

- 1) if the family has an ownership interest in real property, that interest may cause the family's net family assets to exceed \$100,000 (adjusted for inflation), in which case the family is out of compliance; and
- 2) if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence, then the family is out of compliance.

There are several exemptions to the real property restriction at § 5.618(a)(1)(ii), discussed in paragraph A.4.a., which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. However, those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

A.2 Compliance with Admission

At admission, ownership of net family assets that exceed \$100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. PHAs do not have the discretion to "not enforce or provide limited enforcement" of the asset limitation at admission.

A.3 PHA Discretion at Annual and Interim Reexamination

PHAs have discretion with respect to the application of the asset limitation at annual and interim reexamination. PHAs may adopt a written policy of total non-enforcement, enforcement, or limited enforcement, as described below. They may also adopt exceptional policies as described at A.3.d below.

Regardless of the policy they adopt, PHAs must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements. This obligation applies regardless of whether PHAs establish enforcement, limited enforcement, or exception policies to the asset limitation at reexamination. This may mean, for example, that a PHA would be required to allow someone to cure their noncompliance or provide more time to demonstrate they have cured their noncompliance before terminating assistance if there was a nexus between the person's disability and their need to cure or their need for additional time to demonstrate they have cured their noncompliance. Reasonable accommodation could require delaying the initiation of termination or eviction proceedings for more than six months.

A.3.a Total Non-Enforcement

At annual and interim reexamination, PHAs may choose not to enforce the asset limitation, if they establish a written non-enforcement policy. PHAs may establish a total non-enforcement policy for all families at reexaminations, which would mean that they will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation. Where the PHA exercises this discretion to allow families who would otherwise fail to comply with the asset limitation to continue renting their units, the families will continue to receive assistance. If they adopt a total non-enforcement policy, PHAs must apply the non-enforcement policy the same for all families within a program (e.g., if adopted in a PHA's Admissions and Continued Occupancy Policy, it must apply to all Public Housing families). Any non-enforcement policy must be included in the PHA's Administrative Plan or ACOP. **Note:** PHAs who adopt a total non-enforcement policy are still required to calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. While calculating net family assets, PHAs thus still need to determine whether the family owns real property that must be included in net family assets. **However,** if they adopt a total non-enforcement policy, they are not required to obtain and verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618 (e.g., whether owned real property is suitable for occupancy). For example, if a PHA finds a family owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA would not need to inquire whether it was suitable for occupancy.

A.3.b. Enforcement

PHAs may choose to enforce the asset limitation at reexamination. PHAs with an enforcement policy at reexamination must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months. See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation. See paragraph A.5 on how requirements to initiate termination or eviction proceedings vary by program. Any enforcement policy, including the amount of time that a

PHA will delay the initiation of termination or eviction proceedings for noncompliant families, must be included in the PHA's Administrative Plan or ACOP.

A.3.c Limited Enforcement: Option to Cure

PHA may alternatively adopt a written policy of limited enforcement, which would differ from total enforcement of the asset limitation at reexamination in only one regard: all families who are found to be out of compliance at reexamination would be provided the same opportunity to come back into compliance. Families would have up to, but no longer than six months, depending on the limited enforcement policy that the PHA adopts, to demonstrate that they have come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA would not initiate termination or eviction proceedings.

Limited enforcement policies cannot provide families with more than six months to come back into compliance and do not extend the period the PHA may delay initiation of termination or eviction proceedings; the PHA may still only delay initiation of termination or eviction proceedings for the family for a period of not more than six months. (In the case of reasonable accommodation, a family may be afforded more than six months to comply.) See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation.

If the PHA has adopted a limited enforcement policy, that policy must address the timeframe for curing non-compliance (e.g., families will have six months to demonstrate they have cured non-compliance with the asset limitation). In establishing a limited enforcement policy, PHAs may choose to allow an opportunity to cure non-compliance that is less than six months. Any limited enforcement policy, including the amount of time that a PHA will delay the initiation of termination or eviction proceedings for families who do not demonstrate compliance, must be included in the PHA's Administrative Plan or ACOP.

What families must do to cure non-compliance depends on why they were identified as out of compliance. Families could cure non-compliance by removing prohibited assets — for example, by selling real property or bringing net family assets below \$100,000 (as adjusted for inflation). However, the value of assets disposed of for less than fair market value would still be counted in the family's net family asset total in the two years preceding the date of application for the program or reexamination. (See V.B below) for a discussion of what constitutes a disposition of assets for less than fair market value.

If the family is non-compliant with the asset limitation because of a present ownership interest in real property, but their net family assets do not exceed \$100,000 (adjusted for inflation), they can cure non-compliance by demonstrating that either they no longer own the prohibited asset or that it now qualifies for an exemption (e.g., because the family is now offering it for sale), so long as the family's net family assets do not exceed \$100,000

(adjusted for inflation) after such action is taken. (Note, however, that offering real property for sale does not thereby exclude the real property from the calculation of net family assets.)

A family with more than \$100,000 (as adjusted annually for inflation) in net family assets may bring their assets below the threshold in several ways. The family could purchase something that is not counted among net family assets, such as necessary personal property (e.g., a car used for everyday transportation). Alternatively, the family may cure non-compliance by moving assets such that they are no longer counted among net family assets, so long as doing so is not counted as disposing of assets for less than fair market value. In some circumstances, the family may transfer funds into a retirement plan recognized as such by the Internal Revenue Service (e.g., an individual retirement arrangement, employer retirement plan, or retirement plan for self-employed individuals), if the account is held by a member of the family. An asset moved to a retirement account held by a member of the family is not considered an asset disposed of for less than fair market value. Likewise, the family may be able to move funds into an irrevocable trust for the benefit of someone in the assisted family.

When PHAs have a limited enforcement policy and the family demonstrates they have cured non-compliance, PHAs must record the curing of a family's ineligibility in the family's file and permit families to remain in the program. The related updates to the family's income and assets would be processed at the next reexamination, which may be an interim if the family's circumstances meet the threshold for processing such a reexamination, or it may be the next annual reexamination.

A.3.d. Exception Policies

At annual and interim reexamination, PHAs may also establish exceptions to the asset limitation (not at admission or initial certification where the family is being rescreened for assistance). If the PHA has adopted a written exception policy for reexaminations, then families in the specified exception categories will receive either total non-enforcement or limited enforcement, depending on the exception policy the PHA has adopted. Families in the specified exception categories would either

(a) not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at a reexamination, or

(b) they would be provided with an opportunity, up to but no longer than six months, to come back into compliance, after which point the asset limitation would be enforced. An exception policy may be combined with a limited enforcement policy for all other families not in the exception categories, as described below.

PHAs are permitted to include more than one exception as part of any exception policy. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and

whether supportive services are being provided. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements identified in 24 CFR § 5.105(a).

Limited exception policies, which establish an opportunity to cure non-compliance, cannot provide families more than six months to cure these conditions. (In the case of reasonable accommodation, a family may be afforded more than six months to comply.) If they have adopted such a policy, PHAs must initiate termination or eviction proceedings for families who remain in non-compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. In establishing a limited exception policy, PHAs may choose a period of delay that is less than six months. PHAs may choose to combine a limited enforcement policy (which applies to all families) with an exception policy for families in the specified exception categories. **For example**, they may adopt a limited enforcement policy that provides all families with a window of six months to cure non-compliance with the asset limitation, and they may simultaneously adopt an exception policy that provides that the asset limitation will not be enforced at all at annual and interim reexaminations for families in the exception categories. PHAs could alternatively adopt a limited enforcement policy for all families that provides a window of less than six months to cure non-compliance, alongside a limited exception policy that allows families in the exception categories a longer period (up to, but no longer than six months) to cure non-compliance.

Any exception policy must be included in the PHA's Administrative Plan or ACOP. The exception policy must describe whether excepted families are subject to total non-enforcement or limited enforcement.

Example 1: Asset Limitation Exception Policies

Sample Policy A: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to a limited enforcement policy and provided six months to cure noncompliance.

Sample Policy B: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to the enforcement policy.

Sample Policy C: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA's policies. All other families will be subject to a limited enforcement policy and provided four months to cure noncompliance.

Sample Policy D: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA's policies. All other families will be subject to the enforcement policy.

A.4 Real Property Determination

At admission and at reexamination, if the PHA is enforcing the asset limitation, including limited enforcement, and a family declares that they have a present ownership interest in real property, then the PHA must determine whether the property qualifies for an exemption as described in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation), whether the family lacks a legal right to reside in the real property as described in paragraph A.4.b. (Legal Right to Reside in the Real Property), whether they lack the effective legal authority to sell the real property as described in paragraph A.4.c. (Effective Legal Authority to Sell the Real Property), or whether the real property is unsuitable for occupancy as described in paragraph A.4.d. (Suitability of Real Property for Occupancy). If the PHA finds that any of these four things are true, then the family's present ownership interest in real property does not itself mean the family is out of compliance with the asset limitation. The type of third-party documentation that will be used to verify the disposition of a family's real property may vary by a family's circumstances and the locality in which the real property is located.

A.4.a. Exemptions to the Real Property Restriction in the Asset Limitation

The real property restriction does not apply to the following:

- Any property for which the family is receiving assistance under 24 CFR § 982.620 (i.e., a manufactured home owned by a family who receives assistance to lease the

space or lot in which it is located). Likewise, any property for which the family is receiving assistance is under the Homeownership Option in 24 CFR Part 982. See 24 CFR § 5.618(a)(1)(ii)(A).

- Any property jointly owned by a family member and another individual who does not live with the family but who resides at the jointly owned property. See 24 CFR § 5.618(a)(1)(ii)(B).

- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR Part 5 (Subpart L). **For example**, if the victim is a minor, the real property limitation does not apply to any property owned by the victim's parent or guardian. When a family requests an exemption from the real property limitation on this basis, the PHA must accept self-certification and follow the confidentiality and documentation-request requirements established at 24 CFR § 5.2007. See 24 CFR § 5.618(a)(1)(ii)(C).

- Any property that the family is offering for sale. Documentary evidence of the sales process could include, **for example**, a contract with a real estate agent or a current real estate listing. See 24 CFR § 5.618(a)(1)(ii)(D).

A.4.b. Legal Right to Reside in Real Property

The real property restriction applies only when the family has the legal right to reside in the real property. Whether a family has the legal right to reside in a property may be dependent on state and local law. The family may own real property that legally they may not reside in. **For example**, the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

A.4.c. Effective Legal Authority to Sell Real Property

The real property restriction applies only when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located. There may be multiple reasons why a family does not have such legal authority. **For example**, when families are contesting ownership of a property in court, or an individual is in divorce proceedings, they may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled. Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. **For example**, a divorce pleading, or complaint may demonstrate that there are actual divorce proceedings occurring. 25

A.4.d. Suitability of Real Property for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that the real property meets one of the following five conditions (24 CFR § 5.618(a)(2)):

- The property is not capable of meeting the disability-related needs of all members of the family (e.g., it does not meet physical accessibility requirements, family has disability-related need for additional bedrooms, family needs proximity to accessible transportation). Documentary requirements to establish disability-related needs must comply with applicable fair housing and civil rights requirements.
- The property is not sufficient for the size of the family. A PHA occupancy standard may be used for such determination.
- The property is geographically located so that it creates a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would place a hardship on the family, as determined by the PHA. Distance or commute time to school/work are illustrative, but not exhaustive, examples of geographic hardships). Through written policies, PHAs may set parameters on what constitutes such a hardship, but they must consider the specific circumstances of the family, including information provided by the family, in making a determination.
- The property is not safe to reside in because of its physical condition (e.g., the property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied). Unsafe property conditions could include external circumstances or environmental factors outside the control of the family. The property may be deemed not suitable for occupancy if the alterations that would be needed to make it safe to live in are cost prohibitive.
- The family does not have the legal right to reside on the property.

A.5. Special Considerations for Terminating Assistance or Evicting Families for Non-Compliance with the Asset Limitation

Even if PHAs do not adopt a non-enforcement or limited enforcement policy and/or exception policy, they may delay for a period of up to six months the initiation of termination or eviction of assistance proceedings. They are not required to initiate termination or eviction of assistance proceedings immediately upon determining the family is out of compliance with the asset limitation, nor are they required to begin the proceedings during the six-month period to have a termination of assistance or eviction completed at the six-month mark. PHAs are encouraged to set policies for the initiation of termination or eviction of assistance proceedings that provide families with adequate opportunity to find new housing. What it means to initiate termination or

eviction of assistance proceedings due to non-compliance with the asset limitation will vary by program:

- In the Public Housing program, participants who are not compliant with the asset limitation are subject to termination of assistance and eviction from the unit, if they fail to vacate the unit voluntarily. There is no general provision that allows such families to remain and pay an alternative rent.

PHAs must follow program procedures for terminating assistance or tenancy.

For example, for Public Housing families, when the PHA initiates the eviction and termination process, the PHA must provide a lease termination notice of 30 days unless a state or local law requires a longer notice period, and the family must be provided an opportunity for a hearing under the PHA administrative grievance procedure. 27

A.6. Required Policy Updates to Administrative Plans, ACOPs, and Tenant Selection Plans

A.6.a. Admission Policies

PHAs/MFH Owners must establish written screening criteria in their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to prohibit the admission of applicants who own net family assets that exceed \$100,000 (as adjusted for inflation) and/or real property that is suitable for occupancy. Policies should indicate the general parameters PHAs will use when determining whether the location of real property constitutes a geographic hardship.

A.6.b. Reexamination Policies

Whether a PHA chooses to adopt a total non-enforcement, enforcement, limited enforcement, and/or exception policy for reexaminations, that policy and accompanying details must be set forth in the PHA's ACOP or Administrative Plan or in Tenant Selection Plan, as applicable.

PHAs must also update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to indicate when they will initiate termination or eviction proceedings after participant families are determined to be out of compliance with the asset limitation, when the PHA has established either an enforcement policy or policies to permit families to cure their noncompliance. PHAs must initiate termination or eviction proceedings for families who remain out of compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. Policies should indicate the general parameters PHAs will use when determining whether the location of real property constitutes a geographic hardship.

PHA Policy

At the PHA's discretion with respect to the application of the asset limitation at annual and interim reexamination, the PHA has adopted the policy of total non-enforcement.

The PHA's Total Non-Enforcement Policy

At annual and interim reexamination, the PHA will not enforce the asset limitation for all families at annual and interim reexaminations, which would mean that the PHA will not initiate termination or eviction proceedings for a family who is non-compliance with the asset limitation. This discretion will allow families who would otherwise fail to comply with the asset limitation to continue renting their units and receiving assistance. This policy of total non-enforcement will apply to all families within the Public Housing Program as required. The PHA will comply with federal fair housing and civil rights requirements.

As required, the PHA will still calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. While calculating net family assets, the PHA will determine whether the family owns real property that must be included in net family assets and have them provide verification needed to support calculation.

However, due to the non-enforcement policy, the PHA will not obtain or verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618.

If the PHA finds a family who owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA would not need to inquire whether it was suitable for occupancy.

6-V.B. ASSETS

According to HUD's Public Housing Guidebook dated June 2020, PHAs must include in the calculation of annual income any interest, dividends, or net income earned on assets, i.e., real or personal property, held by the family [24 CFR 5.609 (b)(3)].

HUD Definition of Asset Income:

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 a deduction in determining net income. An allowance for depreciation is permitted only as authorized as follows: The net income from the operation of a business or profession is included. However, expenditure for business expansion or amortization of capital indebtedness shall not be used as deduction 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 (IRS) 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. 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 in the operation by family. Any withdrawal of cash or assets from an investment will include income, except to the extent withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets of more than \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by the PHA.

There are two terms that are important in calculating asset income and cash value.

Market value is the face value of an asset. For example, the value of a Certificate of Deposit.

The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:

- Penalties for premature withdrawals.
- Brokers and legal fees; and
- Settlement costs for real estate transactions.

If the total Cash Value of a family's assets is **\$5,000 or less**, annual income shall include the actual income from those assets.

If the total Cash Value of a family's assets is **more than \$5,000**, annual income shall include the greater of the actual income derived from all family assets or a percentage of the value of such assets based on the PHA's current passbook saving's rate.

The HOTMA Final Rule will make significant changes to asset income calculation when it becomes effective in a later date given by HUD.

HUD's Mandatory Policies:

- When the cash value of net family assets total \$5,000 or less, actual income from the assets is used to determine asset income. The family's declaration must show each asset, and the amount of income expected from that asset. This amount must be included in the family income.
- If family assets exceed \$5,000, annual income must 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. To calculate net family assets for households with more than \$5,000, PHAs must calculate the cash value after deducting reasonable costs that would be incurred if the family disposed of the assets (24 CFR § 5.603). The cash value of the assets is based on the market value - which is essentially what a buyer would pay for the asset with cash.

Interest, dividends, other net income from real or personal property, etc. must be included in the calculation for annual income. Any withdrawal of cash or assets from an investment will be included as income, unless it is for the reimbursement of cash or assets invested by the family.

- HUD specifies that if assets are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms, those assets are not considered disposed of for less than fair market value

PHA Discretion Considerations:

- The requirements for asset verification and the determination of income from assets depend on the amount of the family's assets.
- The PHA may accept self-certification that the family's assets are equal to or less than \$5,000.
- For jointly owned assets, the PHAs can detail the way in which the assets are prorated based on ownership if the state or local law does not specify. For example, the best practice is to prorate the asset evenly across all owners of the jointly owned asset.
- PHAs may deduct an allowance for depreciation of assets used in a business or profession. The deduction must be based on straight line depreciation, as provided in Internal Revenue Service regulations (26 CFR § 1.167(b)-1).
- For assets that are disposed of for less than fair market value, the PHA may set a threshold below which those assets will not be counted. The Public Housing Occupancy Guidebook includes an example scenario for reference.

The HOTMA Final Rule will make significant changes to asset income calculation when it becomes effective in a later date given by HUD.

PHA Policy

Until HOTMA final rule becomes effective, The PHA will continue to include the anticipated “interest, dividends, and other net income of any kind from real or personal property” (24 CFR § 5.609(b)(3)) in the calculation of annual income.

For most types of assets, the PHA has determined the value of the asset to compute income from the asset.

Types of Assets

The PHA will consider the following assets, to which any member of the family has access, when determining income:

- Checking and savings accounts
- Investment accounts to include stocks, bonds, saving certificates, and Money Market Funds
- Equity in real property or other capital investments
- Retirement accounts
- Cash value of life insurance policies

Value of Assets and Asset Income

If the total Cash Value of a family’s assets is **\$5,000 or less**, annual income shall include the actual income from those assets.

If the total Cash Value of a family’s assets is **more than \$5,000**, annual income shall include the greater of the actual income derived from all family assets or a percentage of the value of such assets based on the PHA’s current passbook saving’s rate.

Income from Assets

Annual income from assets includes interest, dividends, and 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 for depreciation of assets used in a business or profession, based on straight line depreciation, as provided in Internal Revenue Service regulations. 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.

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes PHAs 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) PHAs believe that past income is the best indicator of anticipated income.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

Jointly Owned Assets

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

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

Disposing of Assets for Less Than Fair Market Value

Any business or household asset that was disposed of for less than fair market value during the two years prior to the effective date of admission or reexamination is considered an asset. See example below for scenario reference.

Note: This does not include assets divested in a foreclosure, bankruptcy, or in a divorce or separation settlement when the applicant or household received some important consideration not measurable in dollars.

Example: Assets Disposed of for Less than Fair Market Value

	<u>Real Estate</u>	<u>Stocks</u>
	<p>Mrs. Jones sold her home to her daughter for \$5,000. The home was valued at \$19,500 and had no loans secured against it. Mrs. Jones paid broker's fees and settlement costs of \$1,700 (approx. 8.7% of the sales price. Note: This is a realistic estimate for the locality).</p> <p>The amount to be included in family assets is \$12,800</p>	<p>Ten months ago, the Daniel family gave their son 300 shares of ABC, Inc. stocks. The market value was \$3,735 (12.45/share. They incurred a broker's fee of \$175 for the transaction.</p> <p>The amount to be included in family assets is \$3,560.</p>
Market Value:	\$19,500	\$3,735
Expense to Convert to Cash:	-\$1,700	-\$175
Cash Value:	\$17,800	\$3,560
Amount Received when Asset Disposed:	-\$5,000	\$0
Value of Asset Disposed of for Less than Fair Market Value:	\$12,800	\$3,560

The PHA opted not to set a threshold which those assets will not be counted.

Third Party Verification Requirements

See Chapter 7, Part I: 7-I.O. Verification of Assets

Asset requirement 24 CFR § 609 apply to Public Housing program.

a) Determining Net Family Assets

Regulations: 24 CFR §§ 5.100 and 5.603

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see paragraph b) below - Exclusions from Net Family Assets).

Assets with negative equity.

The cash value of real property or other assets with negative equity would be considered \$0 for the purpose of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Assets disposed of for less than fair market value.

In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in the net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example's totals \$50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity.

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the

percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant)

Jointly owned assets.

For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see b) below), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see below), or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PH Discretion: None.

b) Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph c) below - Necessary and Non-Necessary Personal Property).
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation. (See paragraph c) below - Necessary and Non-Necessary Personal Property).
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b), and retirement plans for self-employed individuals).
- The value of real property is that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to co-ownership situations (including situations where one owner is a

victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.

- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.

- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).

- Interests in Indian trust land.

- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.

- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.

- Family Self-Sufficiency accounts.

- Federal tax refunds or refundable tax credits for a period of 12 months after receiving receipt by the family.

- The full amount of assets held in irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)

- The full amount of assets is held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph d) - Trusts).

PHA Discretion: PHAs may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

PHA Policy

As needed, the PHA will revise assets forms to ensure that the staff is gathering adequate information to make appropriate assets exclusion determinations.

c) Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

For example, a family could have non-necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal properties are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness.

Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home.

Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for reasonable accommodation for a person with a disability.

Necessary personal property does not include bank accounts, other financial investments, or luxury items. Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property.

Table Examples of Necessary and Non-Necessary Personal Property.
(This is not an exhaustive list)

Necessary Personal Property	Non-Necessary Personal Property
<ul style="list-style-type: none"> • Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies. • Religious and cultural items • Medical equipment and supplies • Health care-related supplies • Musical instruments used by the family. • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities. • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment) 	<ul style="list-style-type: none"> • Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance. • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business. • Items such as gems/precious metals, antique cars, artwork, etc.

Example 1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at \$5,000, a \$15,000 recreational boat, and Ms. Cross's \$3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined \$20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than \$50,000, the family's non-necessary personal property will not be considered when calculating the Cross-family's net family assets.

Cross Family's Personal Property			
Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	\$5,000	Non-necessary Personal Property	\$5,000
Ring (engagement ring)	\$3,000	Necessary Personal Property	\$0
Recreational boat	\$15,000	Non-necessary Personal Property	\$15,000
Total Non-necessary Personal Property:			\$20,000
Calculation of Cross Family's Total Net Assets			
Asset	Total to be Considered in Net Family Assets		
Non-necessary Personal Property	\$0		
Real Property	\$0		
Total:	\$0		
The Cross family's total net family assets are \$0.			

PHA Discretion: None.

d) **Trusts**

Regulations: 24 CFR §§ 5.603 and 5.609

Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family.
- Whether distributions are made from the trust's principal; and
- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

d.i. Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) **is included** in net family assets, and, therefore, income earned from the trust is included in the family's income from assets. This also means that PHAs will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

d.ii. Actual Income from a Trust

If the PHA determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

d.iii. Trust Distributions and Annual Income

- Revocable trust is considered part of net family assets: If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- Revocable or irrevocable trust not considered part of net family assets: If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
 - All distributions from the trust's principal are excluded from income.
 - Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principle), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

The table below is a tool to assist PHAs in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table of Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principle considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

PHA Discretion: None.

e) Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via Treasury Direct to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employees' Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer's tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered \$0.

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR § 5.609(b).

Example: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a \$4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account.

At their next annual reexamination with an effective date of 8/1/2024, the PHA asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a \$4,500 refund and that they deposited the refund into their checking account, which has a balance of \$10,000.

The Rodriguez family reports that they have an actual income of \$100 from the checking account this year. The family has no other assets.

In determining the total value of net family assets, the PHA subtracts \$4,500 from the total of \$10,000 of net family assets, for a total countable asset of \$5,500.

The full value of actual income is included as income because actual income is always included even on excluded assets.

f) Net Family Assts Examples.

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset.

In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets.

These concepts are illustrated in the three examples below.

Example 1: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets.

Any income earned from the funds while stored in such a retirement account is not considered actual income from assets.

However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: \$157,500.

Prior quarter yield: 5 percent (\$7,500)

Distributions made to family: \$12,000 in the prior year, the same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the \$12,000 in distributions (unearned income) which has been paid from the retirement account in increments of \$1,000 monthly to the family.

Example 2: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.

Scenario

Jessica received a civil rights settlement in the amount of \$20,000, because she was not provided with reasonable accommodation. Jessica deposits \$20,000 into her savings account, which already contains \$5,000, and earns 0.5 percent interest annually.

Total civil rights settlement received: \$20,000 (excluded from income under § 5.609(b)(25))

Value of savings account: \$25,000 (which includes the \$20,000 settlement)

Actual income earned from savings account: $\$25,000 \times 0.005 = \125 included in annual income

Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25).

However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example 3: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death.

Scenario A: The Johnson family has a **whole life insurance** policy with a face value of \$100,000 and a surrender value of \$30,000. Net family assets will include \$30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of \$100. This will be included as actual income.

Scenario B: The Dexter family has a **term life insurance** policy with a face value of \$100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be \$0.

6-V.C. Passbook Rate

The passbook rate is only used to determine the final asset income when the total cash value of all the family's assets is greater than \$5,000.

The PHA sets the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually in accordance with HUD guidelines.

PHA Policy

The PHA will comply with the above requirements.

Regulation: 24 CFR § 5.609(a)(2)

HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published monthly. PHAs must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUD User Web site, alongside annual inflationary adjustments (See HUD's Notice 2023-27 dated February 2, 2024 - Attachment H or Exhibit 6-3). To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. To ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUD User not later than September 1. For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations that occur after January 1, 2024, but before the date on which the PHA implements the new passbook rate, PHAs may continue to set their own passbook rates. PHAs may also choose to implement the 2024 HUD passbook rate before complying with HOTMA as they have the flexibility to set their own passbook rate.

Table of Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	0.40 percent

PHA Discretion: None.

PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016–01 (Passbook Saving Rate Effective February 1, 2016).

PHA Policy

The PHA will impute asset income using the HUD-published passbook rate as required above.

6-V.D. Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Actual income and imputed income are treated as described below.

a) Actual Income

Actual income from assets is always included in a family’s annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset.

The increase in market value is relevant to the cash value of the assets for the purpose of determining total net family assets and imputing income.

The following examples illustrate how to calculate actual income from assets:

Example 1: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with \$3,500 that earns 0 percent interest. He also has a savings account with a balance of \$10,000 for which he expects to earn \$300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of \$13,500 does not exceed \$50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets.

(refer to Necessary and Non-Necessary Personal Property of this chapter) . The total value of Eugene Park's net family assets is \$0, and \$300 is included in annual income.

Scenario

Total value of assets: $\$3,500 + \$10,000 = \$13,500$

Net family assets: \$0.00 (total value of assets is less than \$50,000, therefore the value is excluded from net family assets)

Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): \$300 (\$0 from checking account + \$300 from savings account)

Example 2: Calculating Net Family Assets and Actual Asset Income when Net Family Assets Exceed \$50,000 (As Adjusted)

Background: Sherry McNeil received a federal tax refund of \$1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of \$10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of \$45,000. The stocks earned \$405 in cash dividends last year, which Sherry expects to earn again in the coming year.

Scenario

Total value of assets: $\$55,000$ ($\$10,000 + \$45,000$)

Net family assets: $\$53,800$ ($\$55,000 - \$1,200$) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry's non-excluded assets exceeds \$50,000, this value (\$53,800) is included as net family assets and must be confirmed via third-party verification.

Actual Income from Checking Account: \$0 earned ($\$10,000 \times 0$ percent)

Actual Income from Stock Portfolio: \$405 earned in dividends last year on \$45,000

Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): \$405 ($\$0 + \405)

b) Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation).
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate (see Table above). If the actual income from assets can be computed for some assets but not all assets, then PHAs must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated.

After the PHA has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), the imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets.

When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

Example: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of \$25,000. The family also owns a savings account with a verified balance of \$55,000, with an interest rate of 0 percent. The family's total net assets are \$80,000.

The PHA can calculate the actual income of the savings account as \$0, as seen below.

The PHA is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings.

Therefore, imputed asset income for the real property must be calculated.

The passbook savings rate in effect is 0.10 percent.

Scenario

Actual Income from savings account: $\$55,000 \times 0 \text{ percent} = \0 actual income of savings account

Imputed income from family property: $\$25,000 \times 0.001 = \25 imputed income

Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): $\$25 (\$0 + \$25)$

PHAs should not conflate an asset with an actual return of \$0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated.

When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

Example: Imputing Income when Actual Income Cannot Be Calculate

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of \$15,000. They also own a checking account with \$10,000 that earns 0 percent interest and a savings account with \$30,000 that earns 3 percent interest, putting their net family assets value at \$55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.

Scenario

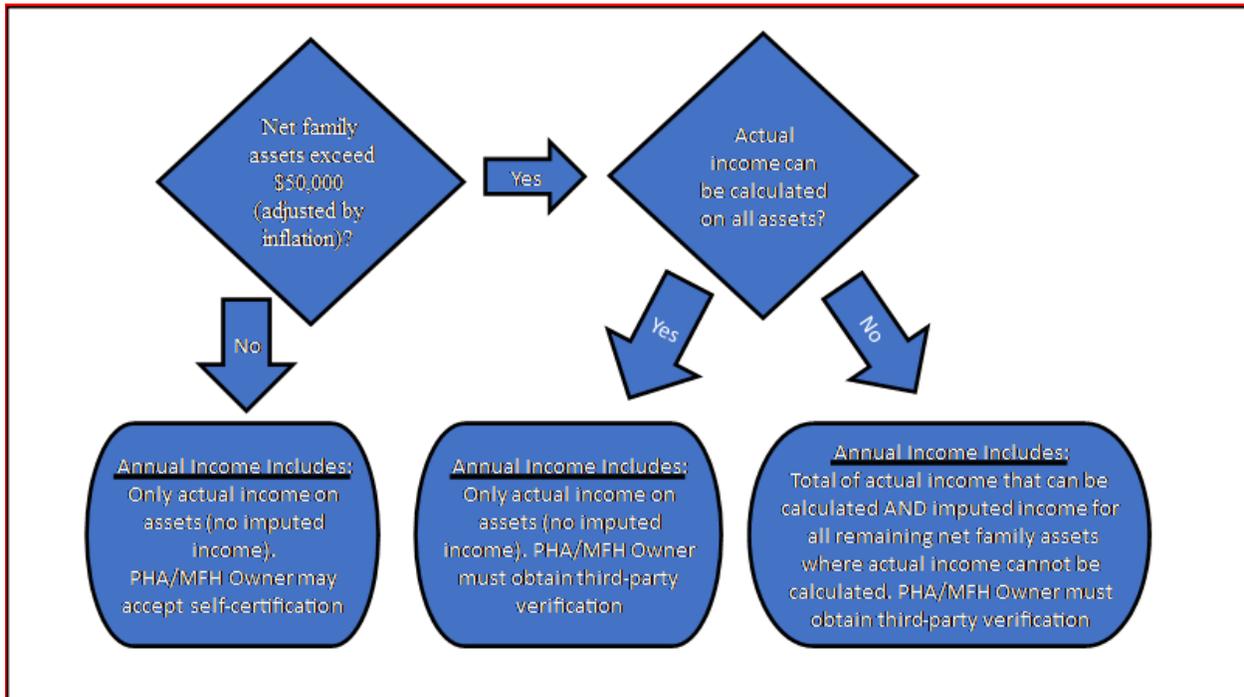
Actual income from assets: \$900 ($\$10,000 \times 0 \text{ percent}$) + ($\$30,000 \times 0.03$)

Imputed income from assets: \$15 ($\$15,000 \times 0.001$)

Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): \$915 ($\$900 + \15)

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Decision Chart for Determining Income from Assets



PHA Discretion: None.

6-V.E. Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

PHAs may determine net family assets based on self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. **When PHAs accept self-certification of net family assets at reexamination, the PHA must fully verify the family's assets every three years.** PHAs may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year. The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs must clarify, during the self-certification process, which assets are included/excluded from net family assets. PHAs may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example: Self-Certification of Net Family Assets

We know from Example above that the Cross-family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total non-necessary personal property			\$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	\$0	\$3.50
Real Property	N/A	N/A
Total:	\$0	\$3.50

The PHA may accept a self-certification of assets from the Cross family if the PHA has a policy to do so (see paragraph below this example for PHA Discretion on accepting self-certification). **The self-certification must include any anticipated income from assets.** In this example, if the PHA is accepting self-certification of assets, then the calculations above would not need to be included on the self-certification form.

Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).

PHA Discretion: PHAs are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs must include in their ACOPs and Administrative Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than \$50,000, the amount which will be adjusted annually by HUD. See Attachment H (Inflationary Adjustments) for more information.

PHA Policy

PHA opted to use self-certification of net family assets for families with net family assets that are equal to or below \$50,000, or as adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and at reexamination.

When PHA accepts self-certification of net family assets at reexamination, the PHA will fully verify the family's assets every three (3) years. PHA will follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The PHA will use HUD's example of Net Family Asset Self-Certification form. See Chapter 7 Exhibit.

PART VI: DEDUCTIONS AND EXPENSES

6-VI.A. Overview

This part covers policies related to mandatory deductions.

Regulations 24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

PHAs must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

6-VI.B. Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1):

Effective January 1, 2024, the dependent deduction amount is \$480. This amount will be adjusted annually (see Attachment H in Exhibit 6-3) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner.

Not later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUD User Web site. PHAs must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA Discretion: None.

PHA Policy

PHA will comply with requirements.

6-VI.C. Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Effective January 1, 2024, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner, after the date on which the PHA implements the new elderly/disabled family deduction.

The amount of the deduction will be adjusted annually (see Attachment H – Exhibit 6-3). Not later than September 1 annually, HUD will publish the CPI-W adjusted elderly/disabled family deduction to the HUD User Web site.

PHA Discretion: None

PHA Policy

The PHA will continue to comply with the \$400 requirements.

6-VI.D. Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

a) **New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses** Regulation: 24 CFR § 5.611(a)(3)

The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

b) **New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction** Regulation: 24 CFR § 5.603

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible for health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families. Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502C2 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA Discretion: None.

c) **Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses** Regulation: 24 CFR § 5.611(a)(3)(ii)

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

To claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA Discretion: None.

PHA Policy

The PHA will comply with the above requirements.

Families That Qualify for Both Health and Medical Care and Disability Assistance Expenses

As required, 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 PHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work. The PHA will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

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 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 is required to determine the type of attendant care that is appropriate for the person with disabilities. Attendant care will include, 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. The 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 a person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work.

For example, if the care provider also cares for a child who is not a 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 on each activity and/or the number of persons under care.

The PHA will comply with all the above requirements. However, the family must identify the family members enabled to work because of the disability assistance expenses. In evaluating the family's request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work. When the PHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

Payments to Family Members

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

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

PHA will consult IRS Publication 502 for some guidance on medical expenses, but as required by HUD, the PHA will not specifically align its policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses.

According to HUD regulation, the IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. Therefore, the PHAs will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

The PHA will accept as allowable unreimbursed medical expenses the following:

The costs of diagnosis, cure, mitigation, treatment, or prevention of disease, or payments for treatments affecting any structure or function of the body. These expenses include the costs of equipment, supplies, and diagnostic devices needed for these purposes.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums will continue to be eligible for health and medical care expenses.

Health and Medical Care expenses that are primarily to alleviate or prevent a physical or mental disability or illness such as:

- Services of doctors and health care professionals.
- Services of health care facilities.
- Medical insurance premiums.
- Prescription/non-prescription medicines (prescribed by a physician).
- Transportation to treatment (cab fare, bus fare, mileage).
- Dental expenses, eyeglasses, hearing aids, batteries.
- Live-in or periodic medical assistance (e.g., Braille or recorded books, home modifications to accommodate a person with a disability, additional expenses to assist individuals who are blind or have low vision or are deaf or hard of hearing); and
- Monthly payment on accumulated medical bills (regular monthly payments on a bill that was previously incurred). The allowance may include only the amount expected to be paid in the coming 12 months. PHA staff will make every effort to probe from the family the above information on allowable medical expenses.

Some of the following other items will not be considered for medical expense deductions, unless these items are recommended as treatment by a specific medical practitioner licensed in the locality where he/she is practicing, for example:

- Cosmetic surgery.
- Health club dues.
- Household help.
- Medical savings account (MSA); and
- Nutritional supplements (such as vitamins, herbal supplements, etc.) and nonprescription medicines.

For Reasonable Accommodation:

PHA will make exceptions to the policy on allowable health and medical expenses as reasonable accommodation for applicants or program participants with disabilities.

Regarding a reasonable accommodation to modify a PHA's policy, the PHA will grant the reasonable accommodation request **if** there is a nexus between what is being requested and the person's disability **unless** the request poses an undue financial and administrative burden or a fundamental alteration to the program.¹⁰¹

If a qualifying family has health and medical expenses and no disability assistance expenses, the allowable health and medical expense is that portion of the total medical expenses that exceeds **3%** **10%** of annual income.¹⁰²

For Upkeep and Care of Assistance Animal:

PHA will count as unreimbursed medical expenses for the upkeep and care of an assistance animal. **The PHAs will determine on a case-by-case basis whether an animal is an assistance animal.**

The IRS has stated that medical expenses include the costs for a "guide dog or other service animal to assist a visually impaired or hearing-impaired person, or a person with other physical disabilities" as medical expenses.

In addition, an Information Letter from the IRS states, "The costs of buying, training, and maintaining a service animal to assist an individual with mental disabilities may qualify as medical care if the taxpayer can establish that the taxpayer is using the service animal primarily for medical care to alleviate a mental defect or illness and that the taxpayer would not have paid the expenses but for the disease or illness."¹⁰³

The PHA will rely on both or either of these documents as reference in including the costs of an assistance animal for a household member with disabilities as medical expense costs if the family otherwise qualifies to deduct unreimbursed medical expenses. In addition, PHAs will provide reasonable accommodations to the policy, including policies regarding unreimbursed medical expenses, when they may be necessary for a person with a disability.

Anticipating Expenses

To be fair to the tenant, the PHA will use historical data not to exceed the prior 12 months to anticipate expenses. If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the tenant paid within the prior 12 months of current interim or re-exam calculation. The PHA will require the tenant to provide documentation of payments made in the preceding year.

Estimating Qualifying Expenses

HUD has an Income Estimation Tool which may be used by the PHA and families to estimate at what amount of expenses a family would begin to receive a deduction for

health and medical expenses. For Example, the family earns \$20,000 per year. The tool will show the qualified expenses over \$2000, which is 10% of the family's income, could be deducted in determining the family adjusted income.

Example of Calculating a Deduction for Childcare and Disability Assistance Expenses

HOH's earned income	\$15,000
Spouse's earned income +	<u>\$ 6,200</u>
Total income	\$21,200

The family has two children; a nine-year old daughter and a 16-year-old son who has a disability. The care provider cares for both children and charges \$200 per week. The care provider verifies that the cost for caring for the nine-year old daughter is \$125 per week and the cost for caring for the 16-year-old son is \$75 per week.

The childcare expense enables the spouse to work.

Child-care expense \$125 x 52 = **\$6,500** for the nine-year-old

Total disability assistance expense \$75 x 52 = \$3,900 for the disability 16-year-old.

Total disability assistance expense (\$3,900) less than 3% of annual income (\$363) = \$3264

Childcare deduction	\$6,200 (capped by earned income of spouse)
Disability assistance deduction +	<u>\$3,264</u>
Total deductions	\$9,464

Total deductions for childcare when compared to the spouse's earnings cannot exceed employment earnings of \$6,200. Assuming the disability assistance enables the HOH to work, the total deductions must not exceed \$15,000.

6-VI.E. Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

As stated, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted more than 5 percent of annual income.

To claim unreimbursed health and medical care expenses, the family must have a head, co-head, or spouse that is elderly or a person with a disability.

To claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend, or conclude a hardship exemption only, PHAs will process and submit a non-interim reexamination transaction as described in HUD Notice 2023-27 Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions), or in chapter 9.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Note: A family receiving phased-in relief may request general hardship relief instead; once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

a) Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income. All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after the date on which the PHA implements the phased-in relief.

Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months.

After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family’s phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024.	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after the date on which the PHA implements the phased-in relief.	5 percent	Annual or Interim Reexamination
Twelve months after the 5percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA processes with a non-interim transaction.
Twelve months after the 7.5percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA processes with a noninterim reexamination transaction.

Example Phased-In Relief

(Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual re-examination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed.

Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is \$10,000 and her unreimbursed health and medical expenses are \$800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not more than the new 10 percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption.

The PHA will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is \$300 (\$800 - \$500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still \$800, she will be able to deduct \$50 (\$800 - \$750).

PHAs **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another Public Housing unit at the same PHA. The family must receive phased-in relief if they are determined to be eligible.

The table below describes the potential phased-in relief outcomes based on a family’s status in PH Program:

Table: Phased-in Relief Outcomes According to Family’s Status

Family’s Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.	N/A. No documentation of phased-in relief is needed.
Public Housing: Family transfers within the same PHA.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in

PHA Discretion: PHAs may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of PHAs’ compliance date.

PHA Policy

For Phased-in Relief

PHA will track the 24-month phase-period for each eligible family, even if a family’s expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in will continue for families who move to another Public Housing unit at the same PHA. The family will receive phased-in relief if they are determined to be eligible as of PHAs’ compliance date.

For Phased-in Hardship Relief

A family receiving phased-in relief may request general hardship relief instead. However, once a family chooses to obtain general relief, the family will no longer receive the phased-in relief.

b) General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical expenses equal to 6 percent of his annual income.

On February 15, 2024, Mr. Beck asks the PHA for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA determines that the family is eligible for general relief and an Interim reexamination would not have otherwise been triggered, the PHA processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days.

The PHA may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA.

PHA Discretion: PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for financial hardship and when such deductions may be eligible for additional 90-day extensions.

PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits.
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or other circumstances as determined by the PHA.

PHAs must not conduct an interim reexamination to add, remove, or extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent.

Instead, the PHA will process and submit a non-interim reexamination transaction as described in HUD's Notice PIH 2023-27 – Attachment I (Non-Interim Reexamination Transactions), or chapter 9 Reexaminations under (Non-Interim Reexamination Transactions).

PHA Policy

For General Hardship Relief

The PHA will require tenant to make their request in writing within 10 calendar days of occurrence and in a PHA format form named "Request for General Hardship Relief – For Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense."

The PHA will also require tenants to report in writing within 10 calendar days if the circumstances that made the tenant eligible for the hardship exemption are no longer applicable. Failure to do so, the PHA will process a rent retroactive charge that would cause the tenants to repay under charged rent. However, if a tenant needs a hardship relief to be extended, the tenant will be required to make their request in writing within 10 calendar days. The PHA will extend such hardship exemption for an additional 90-day period if the tenant can continue to demonstrate to the PHA that the tenant continues to be unable to pay their rent based on tenant circumstances. The PHA will also extend one additional 90-day period if the tenant can continue to demonstrate to the PHA that the tenant continues to be unable to pay their rent based on tenant on-going circumstances.

General relief will be available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care, and auxiliary apparatus expense deduction, or are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If the PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Since the PHA is required to establish policies on how it defines what constitutes a hardship (i.e., when a family is unable to pay rent), triggering eligibility for hardship exemption, the PHA has considered the following circumstances (factors) when determining financial hardship:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits, or welfare benefits, and the family has experienced an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster that caused family to experience an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.
- The family had an unexpected accident and has increased eligible health and medical expenses equal to 6 percent of their annual income.

The PHA will not conduct an interim reexamination to add, remove, or extend a hardship exemption, **unless** another change experienced by the family triggers an interim

reexamination under the applicable regulation or in accordance with the PHA policies on conducting interim reexaminations for adjusted income decreases that are less than 10 percent. **Instead**, the PHA will process and submit a non-interim reexamination transaction as described in chapter 9 – Reexaminations under (Non-Interim Reexamination Transactions).

To initiate, extend or conclude a hardship exemption, the PHA will submit a non-interim transaction code on form HUD–50058, **unless** there is an accompanying event that triggers an interim reexamination.

Notification to Tenant

When the PHA has determined that the tenant is eligible for the health and medical hardship expense exemption or a financial hardship expense exemption, the PHA will notify the tenant in writing of the change in the determination of adjusted income and the tenant’s rent resulting from the request of the hardship exemption.

The written notice will inform the tenant of the dates that the hardship exemption will begin and expire and the requirement for the tenant to report to the PHA if the circumstances that made the tenant eligible for relief are no longer applicable.

The notice will also state that the tenant’s adjusted income and rent will be recalculated upon expiration of the hardship exemption. The PHA will provide the tenant with 30 days’ notice of any increase in rent.

Hardship Exemption Denial

The PHA will promptly notify tenants in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification will specifically state the reason for the denial.

Hardship Exemption Termination

The PHA will notify the tenants if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the tenant eligible for the exemption are no longer applicable. The notice will state the termination date and provide 30 days’ notice of the rent increase, if applicable. For example, if a tenant is currently receiving a hardship exemption, and the family member reports before the initial 90 days, or the additional 90 days that the tenant no longer needs the hardship exemption, or the time has expired, the PHA will process a non-interim reexamination. The PHA will notify the tenant in writing that the hardship exemption terminated effectively the date the tenant reported the current circumstances to the PHA and will provide the tenant with 30 days’ notice of any rent increase.

6-VI.F. Childcare Expenses Deduction and Hardship Exemption to Continue Childcare Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also HUD's Notice PIH 2023-27 Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions).

Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- Care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)).
- The expense is not reimbursed by an agency or individual outside the household; and
- The amount of childcare expenses deducted must not exceed the amount of employment income that is included in the annual income.

A family whose eligibility for the childcare expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent. When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA must recalculate the family's adjusted income and continue the child-care deduction **if the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent** (refer to below Hardship Requirements – for Policy for Determination of the Family's Inability to Pay Rent) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education.

The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA at their discretion may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs will submit a non-interim transaction code on form HUD-50058, unless there is an accompanying event that triggers an interim reexamination.

Example: Hardship Exemption to Continue Childcare Expense Deduction

Ms. Branch had been paying \$250 per week for her child, Violet, to attend childcare, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop remained permanently closed. Ms. Branch has plans to enroll in college in two months.

Although Ms. Branch could watch Violet, the childcare center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable childcare when she starts college.

Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The PHA determined that Ms. Branch met the hardship exemption criteria, as established in the PHA's written policies, and is unable to pay rent.

The PHA will allow Ms. Branch to continue to receive the childcare expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA Discretion: PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

PHA Policy

For Childcare Expenses Deduction:

The tenant is responsible for reporting any childcare expenses to the office within 10 calendar days of occurrence. When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period. When more than one family member works during a given period, the PHA will limit allowable childcare expenses to the earned income of the lowest-paid member. The PHA will not refuse to give a tenant the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

Allowable Childcare Activities

The PHA will consider child-care expenses for the care of children (including foster children) age 12 and younger, if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), and when all the following statements are true:

The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)); The expense is not reimbursed by an agency or individual outside the household; and the amount of childcare expenses deducted must not exceed the amount of annual earned income as noted about.

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 childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare 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 childcare provider, the calculation will be based on the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare 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 childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare 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.

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family members 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 childcare deduction (seeking work, pursuing an education, or being gainfully employed). In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare 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 childcare expense being allowed by the PHA.

Furthering Education

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

Being Gainfully Employed

If the childcare 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 childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

PHA Policy

For General Childcare Hardship Exemption

For a General Hardship Relief to be accepted for determination, the PHA will require the tenant to make their request in writing in a PHA format form named "Request for General Hardship Relief for Childcare Expense Hardship Exemption" and will also require tenant to report in writing within 10 calendar days if the circumstances that made the tenant eligible for the hardship exemption are no longer applicable.

The PHA will also extend such hardship exemption for one additional 90-day period if the tenant can continue to demonstrate to the PHA that the tenant continues to be unable to pay their rent based on the tenant's circumstances.

The PHA will only consider the following circumstances (factors) when determining childcare expense hardship exemption:

- The tenant member lost his/her job, but the childcare center has a long waiting list, and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the tenant member resumes employment status. Therefore, continuing to pay childcare expenses while not receiving earned income has made the tenant unable to pay their rent portion. In such a case, the tenant must provide verification from the Day Care Center.

- The tenant member who worked became unemployed and has plans to enroll in an educational facility in two months. However, the childcare center has a long waiting list and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the family member starts their education. Therefore, continuing to pay childcare expenses while not receiving earned income has made the tenant member unable to pay their rent portion. In such case, the PHA will allow the tenant to continue to receive the childcare expenses deduction for 60 days as the family member is anticipated to enroll in an education facility in the next two months being that an assisted tenant is also eligible for childcare deducted for furthering their education. Nevertheless, the tenant must provide verification from the Day Care Center and from the educational facility.

To initiate, extend or conclude a hardship exemption, PHAs will submit a non-interim transaction code on form HUD-50058, **unless** there is an accompanying event that triggers an interim reexamination. When the PHA has determined that a tenant is eligible for the childcare expense hardship exemption, the PHA will notify the tenant in writing of the change in the determination of adjusted income and the tenant's rent resulting from the request of the hardship exemption. The written notice will inform the tenant of the dates that the hardship exemption will begin and expire and the requirement for the tenant to report to the PHA if the circumstances that made the tenant eligible for relief are no longer applicable.

The notice will also state that the tenant's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The PHA will provide the tenants with 30 days' notice of any increase in rent.

Hardship Exemption Denial

The PHA will promptly notify tenants in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification will specifically state the reason for the denial.

Hardship Exemption Termination

The PHA will notify the tenant if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the tenant eligible for the exemption are no longer applicable. The notice will state the termination date and provide 30 days' notice of the rent increase, if applicable. For example, if a tenant is currently receiving a hardship exemption for childcare expenses, and the tenant member returned to work before the initial 90 days, or the additional 90 days, the PHA will process an interim reexamination and restart the non-hardship childcare expense deduction. The PHA will notify the tenant in writing that the hardship exemption terminated effectively the date the tenant member resumed employment and will provide the tenant with 30 days' notice of any rent increase.

6-VI.G. Hardship Policy Requirements

a) Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

PHAs must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA Discretion: PHAs have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

b) Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

PHAs must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs must provide families with 30 days' notice of any increase in rent.

PHAs are encouraged to communicate the availability of hardship exemptions and how to request hardship to all applicants and families prior to the date the PHAs begin to comply with HOTMA.

PHA Discretion: None.

c) Family Notification of Hardship Exemption Denial

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

d) Family Notification of Hardship Exemption Termination

PHAs must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of the rent increase, if applicable.

Example: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs childcare while the adult family member is receiving physical therapy.

The family subsequently reports to the PHA that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption.

When the hardship exemption ends, the PHA will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction.

The PHA has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see HUD's Notice PIH 2023-27 Attachment I (paragraph I.2)).

The PHA must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase.

The family rent increase will be effective on May 1.

e) Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHAs' hardship policies.

This provision applies to families receiving hardship exemptions for the child-care expenses' deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHAs may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family.

Policies for extending hardship relief for an additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in Tenant Selection Plans.

PHAs must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day period.

PHA Policy

The PHA established required hardship policies. Refer to the above sections 6-VI.E. and 6-VI.F.

6-VI.H. Permissive Deductions

Regulation: 24 CFR § 5.611(b)(1)

A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. PHAs that adopt permissive deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions, so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions. PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP.

PHAs may use their discretion to establish permissive deductions pursuant to 24 CFR 5.611(b) related to foster children and foster adults – for example, to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family's annual income (and not another source, such as a stipend from a child welfare agency)

PHA Policy

50% Child Support Deduction:

The PHA has opted to use permissive deductions to allow 50% child support payments to another BHA tenant in a different household. The PHA will deduct 50% of child support payments made to another BHA tenant as follows.

- The payers must be a current BHA tenant with a court-support order from the support agency.

- The payers must be employed and must have paystubs showing the support being garnished from their earnings. A court order document is not sufficient proof because it does not show that the payer is paying the support amount.

Unreimbursed Health and Medical Expenses for Foster Adult and Foster Child:

The PHA opt to use permissive deductions to allow unreimbursed health and medical expenses of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family's annual income and not another source, such as a stipend from a child welfare agency, or any other source.

PART VII:
ADJUSTED INCOME

Regulations

109 The term “dependent” is defined under 24 CFR § 5.603.

110 24 CFR § 5.611(a)

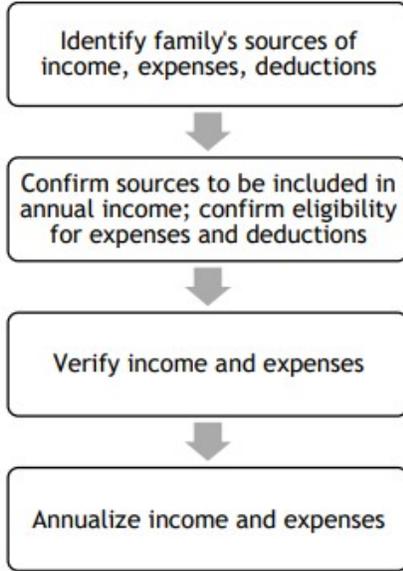
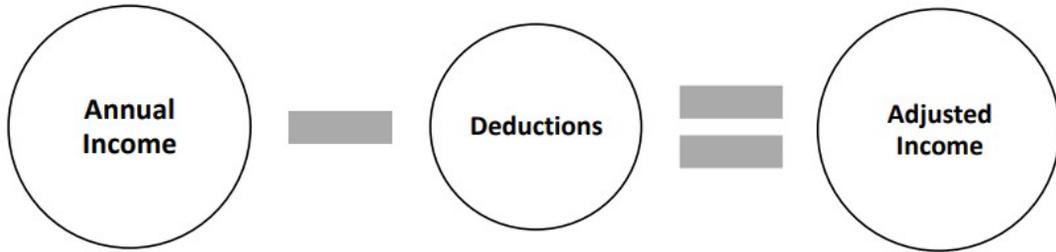
111 24 CFR § 5.611(b)(1)

After determining the family’s annual income and deductions, the PHA can calculate the family’s adjusted income.

Adjusted income is the annual income of all family members residing in or intending to reside in the Public Housing unit after all mandatory deductions are applied:

- \$480 for each dependent;¹⁰⁹ Adjusted annually See Part IV. Exhibit 6-3.
- \$400 \$525 for any elderly family or disabled family; Adjusted annually See Part IV. Exhibit 6-3.
- Reasonable childcare expenses are necessary to enable a family member to be employed to further their education.
- Unreimbursed health and medical expenses for each family member of an elderly or a disabled family to the extent the expenses total more than 3% 10% of the family’s annual income.
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member with a disability when necessary to enable any family member to be employed to the extent the expenses total more than 3% 10% of the family’s income. Note: This deduction cannot be more than the earned income received by family members who are 18 or older and working because of the attendant care or auxiliary apparatus; and
- Unreimbursed health and medical expenses or reasonable childcare expenses for families who have health and medical or childcare expenses that do not meet the requirements above, but who can demonstrate an inability to pay calculated rents because of financial hardship. ¹¹⁰

A PHA may establish additional deductions from annual income for its public housing program if the PHA has established a written policy for the additional deductions.¹¹¹



PART VIII: CALCULATING TOTAL TENANT PAYMENT

6-VIII.A. TOTAL TENANT PAYMENT FORMULA

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 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)
- PHAs have the flexibility to establish a minimum rent of up to \$50 for the Public Housing Program.

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

6-VIII.B. WELFARE RENT - [24 CFR 5.628]

PHA Policy

Welfare rent does not apply in this locality.

6-VIII.C. MINIMUM RENT - 24 CFR § 5.630 (a)

The PHA must charge a family no less than the minimum monthly rent established by the entity responsible, except as described in paragraph (b) of this section. (2) For the public housing program, the PHA may establish a minimum rent of up to \$50.

PHA Policy

The PHA minimum rent is \$50.

PHA may suspend and exempt family from minimum rent when a financial hardship exists.

Minimum Rent Hardship Exemption

PHA will grant any exemption from the minimum rent if a family can document that they are unable to pay the minimum rent because of a long term (over 90 days). The minimum rent hardship 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.

Situation under which families would qualify for the minimum rent hardship are limited to the following.

- The family has lost eligibility for or is applying for an eligible determination for a federal, state, or local assistance program.
- The family would be evicted because of the imposition of the minimum rent requirement.
- The income of the family has decreased because of changed circumstances, including loss of employment.
- A death in the family has occurred. To qualify under this provision, a family must describe how the death has created a financial hardship (i.e., because of funeral-related expenses or the loss of the family member's income).

To qualify for a minimum rent 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.

Determination of Rent Hardship Exemption

When a family requests a minimum rent hardship exemption, PHA will suspend the minimum rent requirement beginning the first of the month following the family's request. PHA will then determine whether the financial hardship exists and whether the hardship is temporary or long-term.

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

No Financial Hardship

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

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

Temporary Hardship

If PHA determines that a qualifying minimum rent financial hardship is temporary, PHA will not impose the minimum rent during the 90-day suspension period. At the end of the 90-day suspension period, PHA 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 PHA the amounts suspended in accordance with PHA's repayment agreement policy.

Long-Term Hardship

If PHA determines that the minimum rent financial hardship is long-term, PHA will exempt the family from the minimum rent requirement for so long as the hardship continues.

The minimum rent hardship exemption will apply from the first of the month following the family's request until the end of the qualifying hardship.

When the minimum rent financial hardship has been determined to be long-term, the family is not required to repay the minimum rent. Families approved for the exemption from minimum rent are required to re-verify every one hundred and twenty (120) days.

- The minimum rent hardship period ends when the family's calculated TTP is greater than the minimum rent.
- For minimum rent hardship conditions based on loss of income, the minimum rent hardship condition will continue to be recognized until new sources of income are received to enable the family to pay at least the minimum rent.
- When the minimum rent is suspended, the tenant rent reverts to the highest of the remaining components of the calculated TTP.

6-VIII.D. CEILING RENT - [24 CFR 960.253]

In accordance with 42 U.S.C. 1437a(a)(2)(A)(ii), PHAs that established and were administering ceiling rents prior to October 1, 1999, are authorized to continue to administer ceiling rents in lieu of flat rents, provided such ceiling rents are set at the level required for flat rents as required by 24 CFR 960.253(d). Further, such PHAs must follow the requirements for calculating, adjusting, and reporting flat rents when calculating and adjusting ceiling rents. To improve transparency and accuracy of reporting, PHAs administering ceiling rents may no longer use line 10c (income-based ceiling rent) on Form HUD-50058 to report ceiling rents for any household. Instead, PHAs must use line 10b (flat rent) to report the applicable maximum rental amount. Cross References: Ceiling Rent, Flat Rent, Rent References: 24 CFR 960.253(b); 24 CFR 960.253(d); Notice PIH 2017-23 (Section 3)

PHA Policy

The PHA did not establish or administer ceiling rent prior to October 1, 1999, but has established Flat Rent requirement explained below.

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

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula. Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

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

Once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The PHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA will provide sufficient information for families to make an informed choice. This information is included in the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA will 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 PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

PHA Policy

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

Reasons for financial hardship include:

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

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

Phasing In Flat Rents [Notice PIH 2017-23; 24 CFR 960.253(b)]

When new flat rent requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased in at the time of their annual recertification.

To do this, PHAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is phased in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

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

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

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

Since the PHA's increased flat rent of \$700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat rent by 1.35 and compare the results to the PHA's current flat rent.

6-VIII.F. 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 refer to Chapter 9 Reexamination Part V. Over-in Families, Chapter 13 - Lease Termination Part II - Over-Income Families for 24 Consecutive Months Requirement.

6-VIII.G. PRORATING ASSISTANCE FOR MIXED FAMILIES - 24 CFR 5.520(d)

A mixed family is eligible for prorated assistance. "Prorated assistance" means the family will receive only a portion of the subsidy for which a fully eligible family would qualify. The prorated is calculated based on the number of members who are citizens or have eligible immigration status and the total number of family members.

The method of prorating assistance for the Public Housing program is shown below:

	Steps for Prorating Assistance for Mixed Families	Example
1	Determine the Total Tenant Payment (TTP) in accordance with 24 CFR 5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)	TTP = \$300
2	The family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.	Flat Rent = \$500
3	Subtract TTP from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible (“Family Maximum Subsidy”).	\$500 - \$300 Family Maximum Subsidy = \$200
4	Divide the Family Maximum Subsidy by the number of persons in the family to determine the maximum subsidy per each family member who has citizenship or eligible immigration status (“Eligible Family Member”). The subsidy per eligible family member is the “Member Maximum Subsidy.”	\$200 divided by 4 = Member Maximum Subsidy = \$400
5	Multiply the Member Maximum Subsidy by the number of Eligible Family Members. The product of this calculation is the “Eligible Subsidy.”	\$50 x 3 = Eligible Subsidy = \$150
6	Mixed Family TTP is the maximum rent, minus the amount of the Eligible Subsidy.	\$500 - \$150 = Mixed Family TTP = \$350
7	Subtract any applicable utility allowance (UA) from the Mixed Family TTP. The result of the calculation is the Mixed Family Tenant Rent.	UA = \$35 \$350 - \$35 = Mixed Family Tenant Rent = \$315

6-VIII.H. UTILITY ALLOWANCES - [24 CFR 965, Subpart E]

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family. For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as 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 of policies related to reasonable accommodation.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review its schedule of utility allowances each year. Between annual reviews, the PHA must revise the utility allowance schedule if there is a rate change 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 because of such changes must be retroactive to the first day of the month following the month in which the last rate change resulted in such revision becoming effective [PH Occ GB, p. 171].

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

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

The PHA may make all utility reimbursement payments to qualifying families monthly or may make quarterly payments when the monthly reimbursement amount is \$14.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement.

The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create financial hardship. The PHA must issue reimbursements that exceed \$15.00 per month monthly.

PHA Policy

The PHA will review its utility allowances each year and revise the utility allowance schedule if there is a rate change that results in a change of 10 percent or more from the rate which such allowances were based. If the change results in an increase in the family's monthly rent, the PHA will give the tenant 30 days' notice of rent increase due to utility changes. If the change results in a decrease in rent, the PHA will make the rent decrease effective the month following the utility revision because effective.

If the tenant is in a negative rent status, the PHA will make utility reimbursements directly to the family. The PHA will issue all utility reimbursements that exceed \$15.00 monthly. When the utility reimbursements are less than \$15.00, the PHA will issue utility reimbursements quarterly, unless a tenant requests reasonable accommodation for a financial hardship that receiving their utility reimbursement quarterly would create a financial hardship due unexpected loss of income, or medical bill, or utility shut off.

See Chapter 16, Part I: Setting Utility Allowances

PART IX: EXHIBITS

EXHIBIT 6-1: Income Exclusions

HUD Notice PIH 2023-27 – HA 2023-10 Issued February 2, 2024 – Attachment G.

Income Exclusion

Regulations 24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; 891.105 and 891.655

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule. PHAs must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

PHA Policy

The PHA will continue to revise forms as needed.

1. **Nonrecurring Income** - Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income, and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

For example, an increasing number of cities and states are piloting guaranteed income 62 programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming

year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income. Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment.
- Direct federal or state economic stimulus payments.
- Amounts directly received by the family because of state refundable tax credits or state tax refunds at the time they are received.
- Amounts directly received by the family because of federal refundable tax credits or federal tax refunds at the time they are received.
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts).
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending on 1/31/25. The PHA excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program,

and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA will exclude the income received after the 5/1/25 annual reexamination.

PHA Discretion: None.

a) Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. **However**, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA Discretion: None.

b) Nonrecurring Income: Economic Stimulus or Recovery Payments - Regulation: 24 CFR § 5.609(b)(24)(ii)

Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income. HUD will continue to advise PHAs of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA Discretion: None.

c) Nonrecurring Income: State Tax Refunds - Regulation: 24 CFR § 5.609(b)(24)(iii)

Amounts directly received by the family because of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA Discretion: None.

d) Nonrecurring Income: Federal Tax Refunds - Regulation 24 CFR § 5.609(b)(24)(iv)

Amounts directly received by the family because of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA Discretion: None.

e) Nonrecurring Income: Gifts - Regulation: 24 CFR § 5.609(b)(24)(v)

Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example: Gifts for Holidays, Birthdays, or Other Significant Life Events/Milestones

Mariah Smith received a check for \$250 on her 25th birthday from her favorite aunt and \$30 from her cousin. These gifts are excluded from annual income.

PHA Discretion: None.

f) Nonrecurring Income: In-Kind Donations

Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization. Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example: In-Kind Donations

Jonas Crandall receives a weekly basket from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA must not include the basket items in the calculation of annual income.

PHA Discretion: None.

PHA Policy

In-Kind Donations from food banks or similar organizations, including from friends and family for personal items, toiletries, clothing, food, etc., will be considered donations and will be excluded from income. **However**, bills paid on behalf of a family member will be considered income and will be counted as income. Such bills include car payments, insurance payments, phone payments, internet payments, TV cable payments, rent or utilities payments, etc. The PHA shall require zero income tenants to fill out a Zero Income Questionnaire for In-Kind Income, not in-kind donations. See Chapter 7, 7-I.V.

2. Lump-Sum Additions to Net Family Assets - Regulation: 24 CFR § 5.609(b)(24)(vii)

Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor \$1,000. Trevor reported his winnings as part of an interim reexamination. The PHA determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario B: Logan fundraises \$5,000 online to help pay for personal expenses (e.g., "Go Fund Me"). The PHA verified with Logan that this was a one-time solicitation for donations of cash and that Logan does not intend this to be a recurring source of income. The \$5,000 is a one-time lump sum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA determines that Logan solicited for donations online a second time and raised an additional \$4,500. Again, Logan certified that he does not intend this to be a recurring source of income, but, because the PHA can establish a pattern, the \$4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA Discretion: None.

3. Income Earned on Amounts Placed in a Family’s Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Income earned on amounts placed in a family’s FSS account is excluded from the family’s calculation of annual income.

PHA Discretion: None.

4. Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family’s calculation of annual income.

PHA Discretion: None.

5. Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (KinGAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA Discretion: None

6. Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers’ compensation, are excluded from annual income. Any workers’ compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Example: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of \$2,500 because of a car accident. Bethanne’s car accident settlement payment is excluded from annual income.

Example: Workers’ Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving worker’s compensation equal to his salary paid in biweekly installments for a period of less than one year. These amounts are excluded from annual income.

PHA Discretion: None.

7. Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Any amount recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received \$60,000 from a civil negligence case. The \$60,000 received by Jacob is excluded from annual income.

PHA Discretion: None.

8. Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Earned income of dependent full-time students more than the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first \$480 of the income earned by dependent full-time students will be included in the family's calculation of annual income. **The dependent deduction will be adjusted annually in accordance with the (CPI-W). (See Exhibit 6-3). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation)** dependent deduction, and the exclusion described in this paragraph.

PHA Discretion: None.

9. Adoption Assistance Payments

Regulation: 24 CFR § 5.609(b)(15)

Adoption assistance payments of more than \$480 per adopted child are excluded from the family's calculation of annual income. **This amount will be adjusted annually in accordance with the CPI-W. (See Exhibit 6-3).**

All dependents, including adopted family members, are eligible to receive the \$480 **(as adjusted for inflation)** dependent deduction and the exclusion described in this paragraph.

PHA Discretion: None.

10. Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Certain veterans are eligible for “aid and attendance” payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

PHA Discretion: None.

11. Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit are excluded from the calculation of the family’s annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

A family member with a disability qualifies for this income exclusion. The amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income if the amounts are provided to enable a family member with a disability to remain in the family’s assisted unit.

Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to the income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA Discretion: None.

12. Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income.

The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable. Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA Discretion: None.

13. Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Payments received by Tribal members because of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income. Generally, payments received by tribal members more than the first \$2,000 of per-capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice. The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

a) Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*, a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs and is included in the list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.

b) Tribal Trust Settlements

The United States has entered settlements with several federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases. 24 CFR 5.609(b)(21) requires that certain payments received by Tribal

members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS) issued guidance in IRS Notice 2013–1, “Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases,” advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407. IRS Notice 2013–1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member’s per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as “nonrecurring income” (24 CFR § 5.609(b)(24)) or as “lump sum additions to net family assets” (24 CFR § 5.609(b)(24)(vii)). The IRS last updated the list of Indian tribes who have entered Tribal Trust Settlements with the United States in 2013, and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family’s per-capita proceeds should be excluded from annual income.

Example: Tribal Trust Settlements

Scenario A: An Indian tribe received \$1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received \$10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA must determine whether the per-capita interest payments to members should be included in the family’s income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first \$2,000 of per capita payments are also excluded from assets, except when these per capita payments are more than the settlement amount and are included (IRS Notice 20131, 25 USC 117b(a), and 25 USC 1407).

PHA Discretion: None.

14. Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA Discretion: None.

15. Student Financial Assistance

Regulation: 24 CFR § 5.609(b)(9)

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance **applicable to MFH and PIH programs** are described below.

a) Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds.

The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants.
- Teach Grants;
- Federal Work Study Programs.
- Federal Perkins Loans.
- Student financial assistance received under the Bureau of Indian Education.
- Higher Education Tribal Grant.
- Tribally Controlled Colleges or Universities Grant Program.
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

b) Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government.

- A state (including U.S. territories), Tribe, or local government.
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3).
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.

The PHA must verify that the other student's financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

b) Non-Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in Public Housing or non-Section programs administered by MFH is excluded from income.

Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded. Actual covered costs include tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)).

For a student who is not the head of household, cohead, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated in chart 2, below.

Chart 1: Steps in Calculating the Amount of Other Student Financial Assistance

<p>Step 1: Subtract the amount received under section 479B of the HEA from the actual covered costs to arrive at the amount of actual covered costs exceeding section 479B assistance.</p> <p>If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income <u>for students participating in the Public Housing and non-Section 8 programs administered by MFH.</u></p>
<p>Step 2: Subtract the actual costs covered exceeding section 479B assistance from the amount of other student financial assistance to arrive at the amount of student financial assistance included in income.</p> <p>Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in the income (i.e., all student financial assistance is excluded from annual income).</p>

The following examples illustrate the treatment of student financial assistance for Public Housing and non-Section 8 programs:

Example 1: Treatment of Student Financial Assistance in Non-Section 8 Programs

<p>Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: \$25,000; University Scholarship: \$15,000; Rotary Club Scholarship: \$3,000.</p>	
<p>Total assistance received under 479B of HEA: \$25,000 (Federal Pell Grant)</p> <p>Total other student financial assistance received: \$18,000</p>	<p>Juan's actual covered costs: \$28,000</p>
<p>Step 1: Determine the amount of actual costs covered exceeding section 479B assistance.</p> <p>\$28,000 (actual covered costs) minus \$25,000 (total assistance received under 479B of HEA) equals \$3,000</p>	<p>Step 2: Determine the amount of student financial assistance to include in income.</p> <p>\$18,000 (other student financial assistance received) minus \$3,000 (actual covered costs exceeding section 479B assistance) equals \$15,000 (if negative, then use \$0)</p>
<p>Amount of student financial assistance included in Juan's income: \$15,000</p>	

**Example 2: Treatment of Student Financial Assistance
Non-Section 8 Programs**

<p>Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: \$2,000; Scholarship from Local Car Dealership: \$500; Gift from Aunt Lois: \$1,000. The \$1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the \$1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).</p>	
<p>Total assistance received under 479B of HEA: \$2,000 (Federal Perkins Loan)</p> <p>The total student financial assistance received: \$500.</p> <p>Total non-student financial assistance: \$1,000</p> <p>Total student financial assistance: \$2,500</p>	<p>Sarah's actual covered costs: \$3,000</p>
<p>Step 1: Determine the amount of actual costs covered exceeding section 479B assistance.</p> <p>\$3,000 (actual covered costs) minus \$2,000 (total assistance received under 479B of HEA) equals \$1,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>\$500 (other student financial assistance received) minus \$1,000 (amount of actual covered costs exceeding section 479B assistance) equals – \$500 (if negative, then use \$0)</p>
<p>The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income.</p> <p>Amount of student financial assistance included in Sarah's income: \$0</p>	

**Example 3: Treatment of Student Financial Assistance in
Non-Section 8 Programs**

Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: \$9,000; Federal Perkins Loan: \$13,000; Local Library Scholarship: \$1,000.	
Total assistance received under 479B of HEA: \$22,000 (Federal Pell Grant plus Federal Perkins Loan) Total other student financial assistance received: \$1,000	Dante’s actual covered costs: \$16,000
Step 1: Determine the amount of actual costs covered exceeding section 479B assistance. \$16,000 (actual covered costs) minus \$22,000 (total assistance received under 479B of HEA) equals \$-6,000	Step 2: Determine amount of student financial assistance to include in income. Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante’s income
Amount of student financial assistance included in Dante’s income: \$1,000	

16. Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income. HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD Assisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA Discretion: None.

17. Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and “Baby Bond” Accounts

Regulation: 24 CFR § 5.609(b)(10)

Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA Discretion: None.

18. Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

The gross income received by a family through self-employment, or the operation of a business, is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined.

Net income is the “gross income amount minus business expenses” that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA Discretion: None.

19. Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

PHA Discretion: None.

20. Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed the practice of excluding civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA Discretion: None.

Additional Income Exclusions Listed in 24 CFR § 5.609(b)

The section above only provides descriptions and clarification information for new and updated income exclusions referenced in 24 CFR § 5.609(b). As stated, it does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule. The following is an updated list from HUD's Public Housing Occupancy Guidebook dated June 2020:

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 individuals with disabilities unrelated to the tenant family who are unable to live alone); **Payments for Foster or Guardianship Care** Payments received by the family to care for foster children or foster adults are not counted as income.⁶⁰ This guidance applies only to payments made through the official foster care relationships with local social service agencies. Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other guardianship payments are like traditional foster care payments and are also excluded from annual income. These forms of care are alternatives to traditional foster care.⁶¹
3. Insurance payments and settlement for personal or property losses (but see No. 5 under Income Inclusions).
4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Any amount recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to the family member arising out of law, that resulted in a member of the family being disabled.

6. Income of a live-in aide (as defined by regulation).
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
8. Amounts received:
 - a) Under training programs funded by HUD.
 - b) By a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
 - c) 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, childcare, etc.) and which are made solely to allow participation in a specific program.
 - d) **A resident service stipend.** This 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.
 - e) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in a 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. 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.
10. Earned income for each dependent who is a **full-time student** up to the deduction provided for dependents.
11. **Adoption** assistance payments of more than \$480 per adopted child; Note: This amount will be adjusted annually. (See Exhibit 6-3).
12. Deferred periodic payments of supplemental security income (**SSI**) and **social security** benefits that are received in a **lump-sum payment** or in prospective monthly amounts.
13. Payments related to the aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance; See above descriptions and clarifications for new and updated income exclusions.
14. 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; See above descriptions and clarifications for new and updated income exclusions.
15. Payments provided 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

member who has a developmental disability living at home; See above descriptions and clarifications for new and updated income exclusions.

16. Amounts that HUD are required by the Federal statute to exclude from consideration as income for the purpose of determining eligibility or benefits under a category of assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. An updated notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion when necessary. As of May 20, 2014 (79 Fed. Reg. 97), such amounts include, but may not be limited to:

- 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 Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058).
- c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e).
- 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. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6).
- g. The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission.
- h. Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g).
- i. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.).
- j. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728).
- k. 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 Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- l. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title

- V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l)).
- m. 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).
 - n. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
 - o. Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).
 - p. 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(c)).
 - q. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC).
 - r. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).
 - s. Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4)).
 - t. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011, D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291); and
 - u. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)).
 - v. The entire value of an individual’s account is established under the Achieving Better Life Experience (ABLE) Act (P.L. 113-295).
 - w. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

- x. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2)).
- y. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
- z. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4)); and
- aa. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

Exhibit 6-2 HUD Student Aid and Financial Assistance Resource Sheet

HOTMA mandates the exclusion of earned income for full-time dependent students and the exclusion of certain financial aid for both full and part-time students.

Mandatory Deduction for Full-time Students 24 CFR 5.609(b)(14)

The earned income of dependent full-time students is more than the amount of deduction for a dependent is excluded from income. Since there are mandatory \$480 deduction* for dependents, the result is that all earned income of dependent students will either be excluded or deducted from income. (*The deduction amount will be adjusted annually for inflation and rounded to the next lowest multiple of \$25.)

Educational Savings Account 24 CFR 5.609(b)(10)

Any amount in or from, or any benefits, income, or distributions from, any Coverdell educational savings account or any qualified tuition program under IRS sections 529 and 530 shall be excluded from income.

Student Financial Assistance 24 CFR 5.609(b)(9)

The new rules create two categories of student financial aid. The first category, is any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income, referred to here as, "Title IV HEA Assistance." For public housing residents, all assistance in this category must be excluded from income. See the exception for some Housing Choice Voucher participants below in the final section. The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education. Exclusion in both categories applies equally to full-time and part-time students.

Title IV HEA Assistance 24 CFR 5.609(b)(9)(i)

Title IV HEA Assistance refers to any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires to be excluded from a family's income. This includes: • Bureau of Indian Affairs/ Education student assistance programs. Current examples include: The Higher Education Tribal Grant, and » The Tribally Controlled Colleges or Universities Grant Program.

To access the full HOTMA Income and Assets Training Series, visit [**www.hudexchange.info**](http://www.hudexchange.info).

- Student assistance received under Title IV of HEA currently includes but is not limited to:
 - » Federal Pell Grants
 - » Teach Grants
 - » Federal Work-Study Programs
 - » Federal Perkins Loans

Beginning January 1, 2024, PHAs shall exclude from income amounts received for the forms of assistance listed in the revised version of Section 479B of the HEA. This will expand the forms of excluded income to include:

- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA), including: workforce investment activities for adults and workers dislocated because of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster that results in mass job dislocation, to assist such adults or workers in obtaining reemployment as soon as possible.

Section 479B of the HEA requires that all assistance under Title IV of the HEA as well as Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations. (See the exception for some Housing Choice Voucher participants below.)

Other Student Financial Assistance 24 CFR 5.609(b)(9)(ii)

This category of excluded student financial assistance recognizes that student aid can take a variety of forms and come from a variety of sources. It seeks to cover student financial assistance, for both full and part-time students, that is not included under Title IV of the HEA or under Bureau of Indian Affairs student assistance programs.

To qualify as excluded student financial assistance under this category, the aid must be:

- Used for “actual covered costs”
- Expressly to assist a student with the costs of higher education; or
- Expressly to assist a student who is not the head of household or spouse, with the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

• A grant or scholarship received from:

- » The federal government.
- » A State, Tribe, or local government.
- » A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3).
- » A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- » An institution of higher education.

The aid may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA as consistent with this section (24 CFR 5.609 (b)(9)(iii))

Student financial assistance, excluded here, does not include:

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

Calculating Exclusions from Both Categories

When the student is receiving assistance that is excluded under both categories, Title IV HEA Assistance must be applied first. Student Financial Assistance can then be applied to any remaining actual costs covered. Once actual costs are covered, any remaining Student Financial Assistance will be considered income.

Steps:

1. Calculate the “actual covered costs.”
2. Apply the Title IV HEA Assistance.
3. Subtract the actual covered costs from the total amount of Title IV HEA Assistance.
 - a. If the amount of assistance excluded as Title IV HEA Assistance is equal to or exceeds the actual covered costs, none of the assistance included under “Student Financial Assistance” would be excluded from income. This is because this assistance would no longer be needed to cover actual costs and therefore would not meet the definition of Student Financial Assistance.
 - b. If the amount of Title IV HEA Assistance is less than the actual costs covered, go to the next step.
4. Exclude the amount of Student Financial Assistance up to the amount of the remaining actual covered costs (those not covered by Title IV HEA Assistance).

Example 1

Title IV HEA Assistance:	\$26,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$25,000
Excluded income:	\$26,000

Explanation: All assistance under Title IV HEA Assistance must be excluded from income. This exclusion must be made first. Student Financial Assistance could then cover any remaining actual costs covered. However, since there were no remaining actual costs covered, this assistance would be counted as income.

Example 2

Title IV HEA Assistance:	\$15,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$22,000
Excluded income:	\$20,000

Explanation: All financial assistance (\$20,000) is still less than the student's actual covered costs (\$22,000). Therefore, all financial assistance should be applied.

Example 3

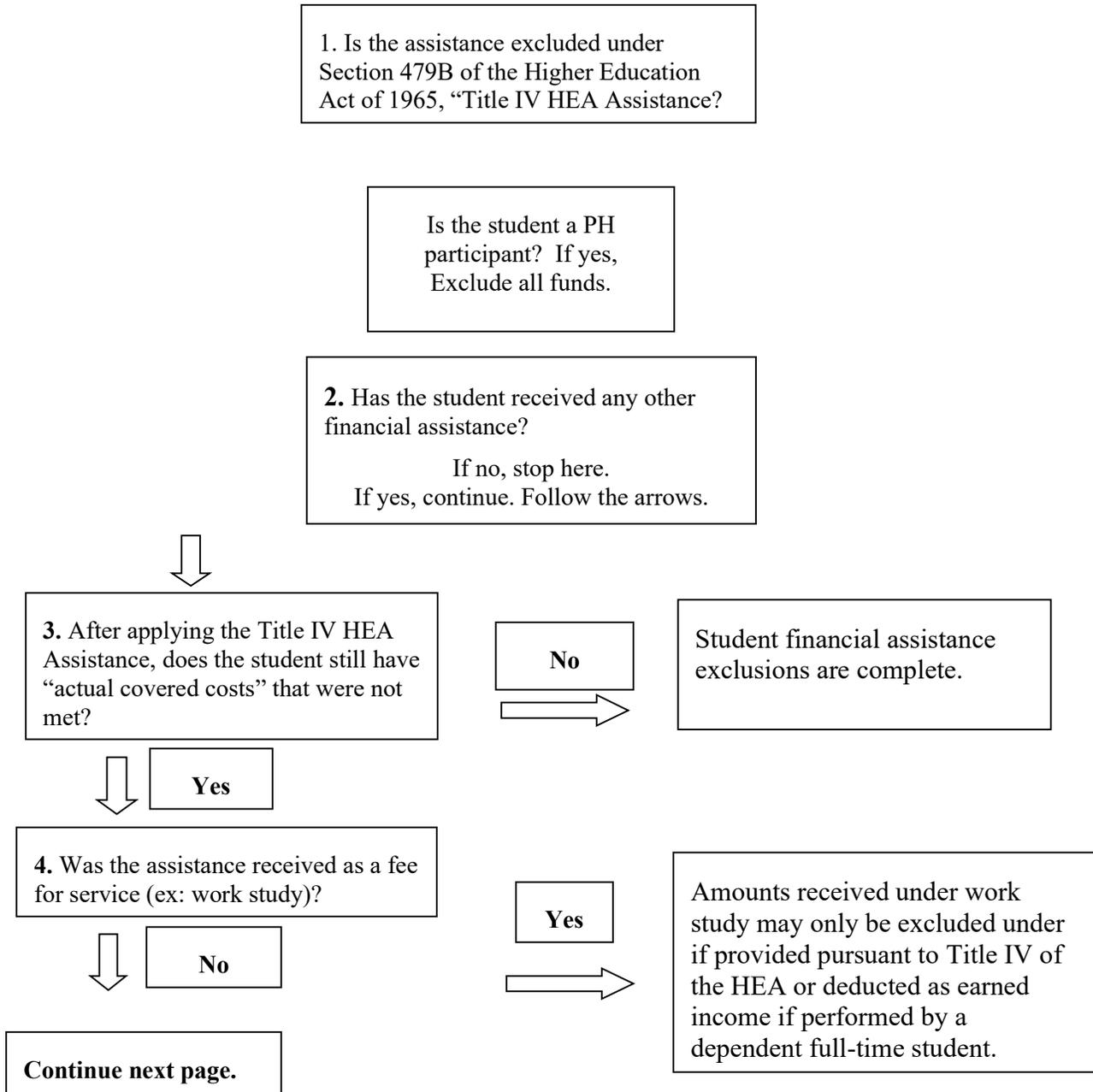
Title IV HEA Assistance:	\$15,000
Student Financial Assistance:	\$5,000
Actual covered costs:	\$18,000
Excluded income:	\$20,000

Explanation: In this case, the students' actual costs are only \$18,000. The amount of the scholarship that is considered Student Financial Assistance and excluded from income would be \$3,000. This is because \$3,000 is the amount by which actual covered costs exceed the assistance excluded as Title IV HEA assistance (\$18,000 - \$15,000). The amount of the scholarship that is more than the student's actual covered costs (\$2,000) is not student financial assistance and is not excluded under § 5.609(b)(9)(ii)

Student Financial Assistance Exclusion Decision Tree

Before going through the decision tree, determine:

1. Title IV HEA Assistance
2. Other Student Financial Assistance
3. Actual covered costs



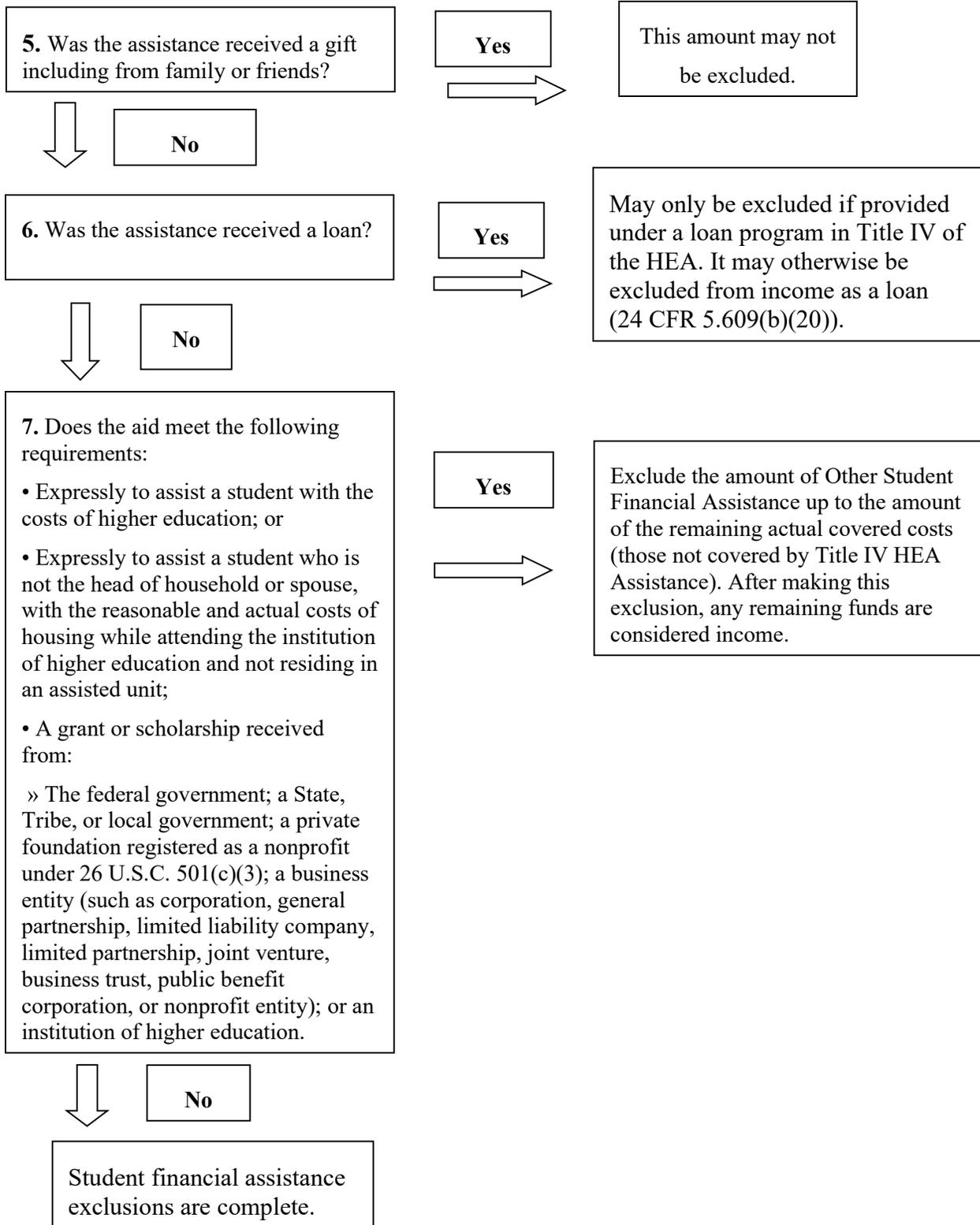


Exhibit 6-3 INFLATIONARY ADJUSTMENTS

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the HUD UserWeb site. The publication will apply to both PIH programs. The revised amounts will be effective on January 1 of the following year.

The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public’s comment on HUD’s methodology for recalculating inflationary adjusted items.

For attachment reviews you can refer to the HUD PIH 2023-27 – H 2023-10 Issued February 2, 2024 – Attachment H.

Table: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (Subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	\$100,000	Nearest dollar	Public Housing,
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	\$50,000	Nearest dollar	Public Housing,

<p>Threshold above which the total value of non-necessary personal property is included in net family assets</p>	<p>24 CFR § 5.603(b) <i>Net family assets</i></p>	<p>Attachment F</p>	<p>\$50,000</p>	<p>Nearest dollar</p>	<p>Public Housing</p>
<p>The amount of net assets for which the PHA may accept self-certification by the family</p>	<p>24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)</p>	<p>Attachment F</p>	<p>\$50,000</p>	<p>Nearest dollar</p>	<p>Public Housing</p>
<p>Mandatory deduction for elderly and disabled families</p>	<p>24 CFR § 5.611(a)(2)</p>	<p>Attachment C</p>	<p>\$525</p>	<p>Next lowest multiple of \$25</p>	<p>Public Housing,</p>

Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	\$480	Next lowest multiple of \$25	Public Housing
Income Exclusion of earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	\$480	Next lowest multiple of \$25	Public Housing
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	\$480	Next lowest multiple of \$25	Public Housing,

HUD will annually publish the recalculated inflationary-adjusted items to HUD's Policy Development and Research Web site, [HUDUser](#).

The new amounts will become effective January 1 of the following year.

PHAs must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year.

Note that it will be particularly important for PHAs who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination.

For example, when a PHA issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

Chapter 7

VERIFICATION

OVERVIEW

Public Housing Program applicants and residents must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

24 CFR § 5.611(b)(1) 24 CFR § 960.259(c)

To accurately calculate the family's adjusted income, the PHA must obtain and document verifications in the tenant file related to the tenant's annual income including:

- Reported family annual income.
- The cash value of assets and income derived from assets.
- Expenses related to deductions from annual income; and
- Any other factors that affect the calculation of adjusted income.

HUD does not explicitly require PHAs to have verification procedures under certain circumstances such as verifying assets, however, having written procedures is in the PHA's best interest for a variety of reasons as they:

- Ensure that tenants receive fair and consistent treatment.
- May protect the PHA in the case of an audit or legal inquiry; and
- Serve as a training tool for new staff.

The following steps demonstrate the general guideline for completing the income verification process and calculating annual income:

- Step 1: Identify the family's sources of income, expenses, deductions.
- Step 2. Confirm sources to be included in annual income.
- Step 3. Confirm eligibility for expenses and deductions.
- Step 4. Verify income and expenses.
- Step 5: Annualize income and expenses.

This chapter summarizes those requirements and provides supplementary PHA policies.

Part I: Verification Requirements.

Part II: Verification of Mandatory Deduction

Part III: Verification of Family Information

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

PART I: VERIFICATION REQUIREMENTS

OVERVIEW

24 CFR 960.259(a)(1)

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

HUD Notice PIH 2023-27 – HA 2023-10 issued February 2, 2024, supersedes PIH 2018-18 - Regulations - 24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); and 982.516(a)(2)

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

7-I.A. AUTHORIZATION FOR THE RELEASE OF INFORMATION (Forms HUD-9886-A)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)

In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination.

After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination **except** under the following circumstances:

- When any person 18 years or older becomes a member of the family.
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent.

If a family voluntarily leaves a HUD program, the family's assistance is terminated, and the signed consent forms will no longer be in effect.

HUD published a new form HUD-9886-A to conform with the final rule. HUD included language in the forms allowing PHAs to obtain financial records from financial institutions whenever the PHA determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA Discretion: PHAs have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

Note: Any person, regardless of age, who subsequently becomes a family member as the head of household, co-head of household, or spouse, must sign the consent form, in accordance with 24 CFR §§ 5.230(a)

PHA Policy

The new HUD-9886-A was published 10/2023. The PHA staff started processing new consent form with March 1, 2023, annual reexamination.

After an applicant or participant has signed and submitted the new consent form either on or after January 1, 2024 (regardless of the PHA's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income reexamination **except** under the following circumstances:

- When any person 18 years or older becomes a new member of the family; and
- As required by HUD or the PHA in administrative instructions.

When family members turn 18 between reexaminations, PHA will not require any family member to sign the consent form at intervals other than at annual reexamination, unless the member who turned 18 years old has a change of income.

7-I.B. REVOCATION OF CONSENT – PENALTIES FOR FAILING TO CONSENT

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). PHAs will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA; however, revoking consent may result in termination of assistance or denial of admission, if the PHA has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, to avoid termination of assistance or be reviewed for eligibility for admission. PHAs must explain to families the consequences, if any, of revoking their consent. **PHAs must notify their local HUD office of a family's revocation of consent.**

PHA Discretion: PHAs may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA's Administrative Plan, ACOP, as applicable.

PHA Policy

To revoke the consent, the families must provide written notice to the PHA; however, revoking consent will result in termination of assistance or denial of admission. The PHA will explain to families the consequences of revoking their consent.

7-I.C. GENERAL VERIFICATION REQUIREMENT

PHA Policy

Any documents used for verification (both income and family information documents) must be original (not photocopies) and generally must be dated within **120** calendar days of the date they are provided to PHA. PHA may accept scanned documents from third parties.

- The documents must not be damaged, altered or in any way illegible. PHA may reject any tenant provided documentation if:
 - o The original document has been altered, mutilated or is not legible; or
 - o The document appears to be a forged document (i.e. does not appear to be authentic)
- Print-outs from web pages are considered original documents.
- Generally, the PHA staff member who views verification documents must make a photocopy and stamp the copy with the date the document was received. Birth certificates, photo IDs and SS cards will not require a date stamp.
- PHA may require that family self-certifications be signed in the presence of a PHA representative.
- The cost of verification will not be passed on to the family.

For verification of wages using review of tenant provided documents, PHA requires:

Pay Frequency	Number of Consecutive Pay Stubs
Weekly	2
Bi-weekly or Semi-Monthly	2
Monthly	2

• If an applicant/tenant provides more than the minimum required pay stubs for verification, PHA will use only the minimum number of paystubs required and will ensure that the pay stubs used reflect the most current paystubs provided. See Part II, Earned Income, 7-II-A.

7-I.D. SUBSTANTIAL DIFFERENCE

PHA Policy

If UIV/ third-party information differs substantially from tenant provided information, the PHA reserves the right to request additional verification information and use any other verification method in priority order to reconcile the difference.

PHA will use \$200 per month as the threshold for a substantial difference.

7-I.E. FRAUD

PHA Policy

Information provided by the applicant/tenant that proves to be untrue may be used to disqualify the applicant for admission or terminate the tenant based on attempted fraud. PHA considers false information concerning the following to be grounds for rejecting an applicant or terminating assistance:

- Income, assets, family composition.
- Social Security Numbers.
- Preferences.
- Allowances; and
- Previous tenant history or criminal history.

The applicant/tenant shall be notified in writing of such determination by PHA and will be given the opportunity for an informal hearing /grievance hearing of the matter.

7-I.F. ENTERPRISE INCOME VERIFICATION (EIV)

HUD Notice 2018-18 dated October 26, 2018, HUD Regulation. 24 CFR 5.233. Since January 31, 2010, all PHAs have been required to use the EIV system in its entirety. This means that PHAs must use all features of the EIV system to:

- a) Verify tenant employment and income information during interim and mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236, and other HUD administrative guidance; and
- b) Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

The EIV System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information for tenants who participate in the Public Housing. This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

EIV is classified as a UIV technique (or automated written third-party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique, in many instances, will reduce the need to mail or fax third party verification request forms to an income source

All PHA staff (including PHA-hired management agents), who have a need to access the EIV system, are required to complete and submit the EIV Access Authorization Form & Rules of Behavior and User Agreement to their designated EIV Coordinator in the local HUD office.

The user's access must be approved by the PHA Executive Director or designee for the local HUD office to process all EIV access requests. Individuals who will not directly access the EIV system but will have access to the EIV data in printed or electronic form also are required to complete the EIV Access Authorization Form & Rules of Behavior and User Agreement and maintain it on file (do not submit the form to the local HUD office).

Note: According to HUD Notice PHI 2024-10 dated February 2, 2024, concerning HOTMA changes, PHAs must use EIV to verify tenant employment and income information at annual reexamination. **However, PHA are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.**

PHA Policy

The PHA will comply with all the above requirements.
See 7-I.H. Below for more details

7-I.G. INCOME VALIDATION TOOL (IVT)

The IVT Report is a new report that replaces the current Income Discrepancy Report under the verification reports linked in EIV. This report will facilitate and enhance PHA identification of tenant unreported or underreported income during interim and regular reexaminations.

The IVT will be updated monthly and provide a comparison between tenant reported income and income information previously reported on HUD-50058.

It will include any discrepant income information specifically derived and reported from HUD's data sharing agreements with HHS-NDNH and the Social Security Administration (SSA).

The IVT will also provide income and wage, unemployment compensation and SSA benefit information. HUD staff and PHA personnel will be able to search for a comprehensive database comprised of several screens that will include income information for Heads of Household and family members where there may be discrepancies in family reported income and employer reported information.

During reexamination, or other significant contacts with tenant families, PHAs will see any reported discrepancies, determine the degree of tenant underreporting or misreporting of income information and act in accordance with their policies to resolve the identified discrepancies.

PHAs are required to review the Income and IVT reports during mandatory and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments.

However, according to HUD Notice PIH 2024-10 dated February 2, 2024, Hud intends to update the discrepancy logic for PHA Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs are not required to investigate discrepancies resulting from the PHA Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs when the new reports are ready for use.

PHA Policy

PHA shall wait upon HUD to report new reports.

7-I.H. EIV INCOME REPORTS

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

According to HUD Notice PHI 2024-10 dated February 2, 2024, PHAs must use EIV to verify tenant employment and income information at annual reexamination. **However,** PHA are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income. PHA

are still required to use EIV in its entirety, including using all the required reports, such as the Existing Tenant Search and Income Reports to verify tenant employment and income information at all other times.

PHA Policy

EIV Income reports will be compared to household-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6: Income and Rent Determination.

Income reports will be used as necessary to identify earned income and unemployment benefits, and to verify and calculate Social Security, Dual Entitlement and/or SSI benefits.

EIV will also be used to verify that households claiming zero income are not receiving income from any of these sources.

New Admission:

For each new admission, PHA will review the EIV Income and IVT Reports within 120 days from the first PIC submission date to ensure that families, at the time of admission, accurately reported income. PHA will print and retain the reports and will take action to address any income discrepancies within 60 days from running the EIV income report.

Historical Adjustment:

For each historical adjustment, PHA will run the EIV Income and IVT Reports within 120 days from the PIC submission date to ensure that families accurately reported income. PHA will print and retain the reports and will take action to address any income discrepancies within 60 days from running the EIV/IVT reports.

Interim Reexamination of Family Income and Composition:

PHA opted to no longer use EIV to verify tenant employment and income information during an interim reexamination of family composition and income. **However,** the PHA will use EIV at interim reexamination of family composition and income, only when necessary, such as suspected misrepresentation of income, or to verify hired date if needed, and any information that the assisted family is unable to provide, or during a tenant dispute in income calculation. PHA will print and retain the reports and will follow up with the family and resolve the differences between reported information using the HUD hierarchy of verification.

Annual Reexamination

As required, for each annual reexamination of family income and composition, the PHA will obtain an EIV Income report to review and retain in the tenant file.

At each annual reexamination of income and family composition PHA will:

- Review the EIV to confirm/validate tenant-reported income.
- Print and maintain the EIV in the tenant file.

- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and
- Use current tenant-provided documentation and/or third-party verification to calculate annual income concerning earned income and unemployment benefits.
- Use EIV to calculate SSA benefits such as SSI, Dual Entitlement, and Social Security benefits, unless tenant has a dispute, or EIV does not show tenant reported benefits. Then the PHA may use current tenant-provided documentation and/or third-party verification to calculate annual income.

Additionally, at each annual and interim reexamination of income and family composition, using the EIV, PHA will:

- Identify any reported discrepancies in family reported income and employer reported information.
- Request the tenant to provide any documentation to confirm or dispute the income discrepancy.
- If applicable, determine the tenant's rent using the correct and updated income.
- Determine the degree of tenant underreporting or misreporting of income information; and act in accordance with PHA policy to resolve the identified discrepancies

All verifications, regardless of technique, require the PHA to review the EIV information at the time of reexamination.

7-1.1. EIV IDENTITY VERIFICATION

PHA Policy

The EIV system verifies tenant identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth. When identity verification for a tenant fails, a message will be displayed within the EIV system, and no income information will be displayed.

PHA will identify tenants whose identity verification has failed. PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When PHA determines that discrepancies exist because of PHA errors, such as spelling errors or incorrect birth dates, PHA will correct the errors.

7-I.J. VERIFICATION HIERARCHY AND TECHNIQUES

According to HUD Notice PIH 2018-18 dated October 26, 2018, PHAs should begin with the highest level of verification techniques.

PHAs are required to review the EIV Former Tenant and Existing Tenant Reports for any SSA matches involving another PHA or a Multi-family entity and follow-up on any issues identified. The PHA is required to maintain the report and documentation of any follow-up in the tenant file.

If the tenant is a new admission to the PHA, and a match is identified at a multi-family property, the PHA must report the program admission date to the multi-family property and document the notification in the tenant file.

PHAs also need to obtain an Income Report for each household. The PHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all interim and mandatory reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the PHA should attempt the next lower-level verification technique, as noted in the chart below.

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (not available for income verifications of new applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV), using non-HUD system	Highest (Optional)
4	Written Third-Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes information and is unable to provide acceptable documentation to support dispute)
3	Written Third-Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third-Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third-party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

7-I.K. VERIFICATION TECHNIQUE DEFINITIONS

Upfront Income Verification (UIV) (Level 6/5):

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 several individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

Written Third Party Verification (Level 4):

An original or authentic document generated by a third-party source dated either within the **120-day** period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third

party verification since these documents originated from a third-party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to:

- pay stubs,
- payroll summary report,
- employer notice/letter of hire/termination,
- SSA benefit verification letter,
- bank statements,
- child support payment stubs,
- welfare benefit letters and/or printouts, and
- unemployment monetary benefit notices.

Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third-party verification form or the best available information.

Note: Documents older than 120 days (from the PHA interview/determination or request date) are acceptable for confirming effective dates of income.

Written Third Party Verification Form (Level 3):

This is also known as traditional third-party verification. A standardized form to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email. It is the Department's position that the administrative burden and risk associated with use of the traditional third-party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce

improper subsidy payments. This verification process also will streamline the income verification process.

Oral Third-Party Verification (Level 2):

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information. This verification method is commonly used when the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, e.g., ten (10) business days.

Non-Third-Party Verification Technique - Tenant Declaration (Level 1):

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third-party verification was not available.

Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is required to document in the family file the reason(s) why third-party verification was not available.

The exception to third party verification can be found at 24 CFR 960.259(c)(1) and §982.516(a)(2), which state in part, "...The PHA must obtain and document in the family file third party verification of the following factors or must document in the file why third-party verification was not available."

PHA Policy

PHA will comply with all the above verification hierarchy requirements,

Up-Front Income Verification (UIV) - Level 6/5

UIV will be used to the extent that these systems are available to PHA.

Third-Party Written Verification – Level 4

PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Written Third-Party Verification Form – Level 3

PHA may send a written request for third party verification under the following circumstances:

- When higher forms of verification (UIV, EIV) are not available.
- When PHA requires clarification of income information.
- If the tenant disputes EIV, UIV or other third-party documents; and
- When there is a significant difference between the tenant provided information and third-party documents.
- PHA may mail, fax, e-mail, or hand deliver third-party written verification form requests and will accept third-party responses by any of these methods.
- As needed, PHA will send a written request for verification to each required source after securing a family's authorization for the release of the information.
- A record of each attempt to contact a third-party source will be documented in the file.

Oral Third-Party Verification – Level 2

PHA will document all attempts at oral verification in the tenant file. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent. Documented attempts will accompany 50058s to support income, assets, and deductions entries and determination.

When Third-Party Verification Is Not Required

Third party verification will not be required under the following circumstances:

Verification Service Charge

If there is a service charge for third party verification, PHA will assume that third party verification is not available and use lower forms of verification according to the verification hierarchy.

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.

Assets Disposed of Less than Fair Market Value

PHA will accept self-certification from the family as verification of assets disposed of for less than fair market value. See Verification of Assets for policies related to assets disposed of for less than fair market value.

Other Assets

PHA will accept self-certification of assets during annual reexamination when the market value of the family's assets is \$5,000 and less.

Insignificant Amount of Income

PHA will determine that third-party verification is not required if the asset or expense involves an insignificant amount of income, making it not cost-effective or reasonable to obtain third-party verification. An insignificant amount of income is defined as \$10 or less per month.

Self-Certification – Level 1

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 PHA.

Self-certification, or “tenant declaration,” is used as a last resort when PHA is unable to obtain third-party verification. PHA will document the file with attempts to obtain higher forms of verification before relying on self-certification.

PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

Self-certification must be made in a format acceptable to PHA. PHA may require that family self-certifications be signed in the presence of a PHA representative. The PHA will not require a notarized statement or affidavit. The PHA will provide tenant with a PHA’s Self-Certification Statement of Assets.

Self-certification **may not** be used to verify the following benefits:

- Social Security Benefits.
- Unemployment.
- Court Ordered Child Support.
- Supplemental Security Income Benefits.
- Public Assistance.
- Veteran’s Benefits.
- Government Pensions; and
- Unreimbursed medical expenses.

7-I.L. WHEN THIRD-PARTY INFORMATION IS LATE

PHA Policy

When third-party verification has been requested and the timeframes for submission have been exceeded, PHA will use tenant provided information on a provisional basis. If PHA later receives third-party verification that differs substantially from the amounts used in income and rent determinations and it is past the deadline for processing the recertification, PHA will conduct an interim recertification to adjust the figures.

7-I.M. EARNED INCOME

PHA Policy

PHA will follow the required HUD's Third-Party Verification Descriptions and Guidance concerning verification hierarchy.

For wages other than tips, PHA will accept originals of the two most current, consecutive pay stubs. PHA will calculate the current and consecutive gross amounts shown on the paystubs according to weekly, biweekly, semi-monthly, or monthly pay. If the paystubs indicate partial pay due to first pay on a new job, or first pay after returning to work, then the PHA will require a minimum of three current and consecutive paystubs to determine a fair average anticipated gross annual income from wages based on the second and third paystubs, or traditional written third-party verification. If tenants report a decrease in income, tenants must provide the two most current and consecutive paystubs for biweekly pay or semi-month pay, four most current and consecutive paystubs for weekly pay, and one for monthly pay, or a letter from employer indicating that hours being decreased.

Unless tip income is included in a family member's paystubs, traditional third-party, or W-2 verification, family members who work in the industries where tips are standard will be required to sign a self-certification certifying estimate of tips received for the prior year and tips anticipated to be received in the coming year.

For family members who regularly receive bonuses or commissions, the PHA will verify, and then the average amounts received for one-year preceding and add it as a one-time payment annual income payment. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately. Self-certification will be used as a last resort. See 7-I.C. above.

7-I.N. SELF EMPLOYMENT OR BUSINESS INCOME

To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined according to verifications provided by the family. The net income is the "gross income amount minus business expenses" that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA Policy

To verify the net income of a self-employed person or business owner, PHA will require the applicant or assisted family member to provide any of the following tenant-provided verification:

- Copies of Tax Return with all schedules completed for filing federal and local taxes in the preceding year show all gross income and business expenses.
- 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.
- 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 its accuracy.
- The PHA will accept the family member's self-certification estimate of income and expenses upon reporting. If a family member is self-employed and is not required to file taxes due to the IRS minimum income requirement for filing a tax return, (Publication 501), the PHA will accept the family member's self-certification estimate of income and expenses.
- Family will be required to use PHA's format form for self-certification of self-employment/business. See Part V. Exhibit 7-.

PHA will project income and expenses based on acceptable verification received.

Asset owned by business entity:

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant). Refer to Chapter 6 Part V. Assets.

For joined business, applicants or tenants must provide verification of the percentage of ownership of their business.

7-I.O. VERIFICATION OF ASSETS

According to HUD's Public Housing Occupancy Guidebook, dated June 2020, the requirements for assets verification and the determination of income from assets depend on the amount of the family's assets. PHAs may accept self-certification that the family's assets are equal to or less than \$,5000. PHAs must obtain third-party verification of all family at the time of admission and again a least every three years thereafter [24 CFR 960.259 – Notice PIH 2016-05]. The PHA may accept, for the purposes of recertification of income, a family's declaration that it has net assets of \$5,000 or less without additional verification. When the cash value of net family assets total \$5,000 or less, actual income from the assets is used to determine assets. The family's declaration must show each asset, and the amount of income expected from the asset. This amount must be included in the family income.

HUD Notice 2018-18 dated October 26, 2018 – Page 7. #9 Third-party verification requirements. In accordance with 24 CFR 960.259(c)(1) and 24 CFR 982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third-party verification of the following factors, or must document in the tenant file why third-party verification was not available:

- (i) reported family annual income.
- (ii) the value of assets.
- (iii) expenses related to deductions from annual income; and
- (iv) other factors that affect the determination of adjusted income.

HUD Notice PIH 2016-05 (HA) Issued April 7, 2016 – Streamlining Administrative Regulation for Programs Administered by PHAs.

Family Declaration of Assets Under \$5,000

Regulation: 24 CFR §§960.259, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing Description of change:

Under this provision, a PHA must obtain third-party verification of all family assets upon admitting a family to the HCV or public housing program and then again at least every 3 years thereafter. During the intervening annual reexaminations, a PHA has the discretion under this provision to accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration.

If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset, and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

A PHA may obtain a family's declaration of assets under \$5,000 at the family's next interim or annual reexamination following adoption of the provision in the PHA's ACOP or Admin. Plan.

PHAs are required to have all family members 18 years of age and older sign the family's declaration of total assets.

For ease of implementation, a PHA may wish to require families to submit a declaration of assets along with the consent forms that are required pursuant to 24 CFR 5.230. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, a PHA must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, a PHA must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the PHA is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

If a PHA adopted the self-certification of assets provision in Notice PIH 2013-03 and wishes now to adopt the provision described in this Notice, then the PHA must obtain third-party verification of all assets of any family at the family's next income redetermination if that family has provided self-certification of assets for the two previous income redeterminations.

Background: The requirement to verify assets is time-consuming for PHAs and families. In addition, assets of \$5,000 or less have little to no effect on family rental payments. This provision is intended to alleviate the burden on PHAs and families verifying such assets; it also brings the HCV, PBV, and Public Housing programs.

Mandatory or discretionary: Discretionary Effective date: April 7, 2016.

PHA Policy

To alleviate the burden on the PHA's staff, the PHA opted to use the above discretionary provision of family declaration of assets under \$5,000.

Third-Party Verification Requirement at Admission

Under this provision, the PHA shall obtain third-party verification of all family assets upon family admission to the public housing program and then again at least every 3 years thereafter, on the third year following the second year.

Annual Reexamination

During the intervening annual reexaminations, the PHA shall accept a family's declaration (Statement of Assets) that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements, or traditional third-party verification).

Assets of more than \$5,000

Where the family has net assets of more than \$5,000, the PHA shall verify the value and income from assets using the verification hierarchy (i.e. bank statements, or traditional third-party verification).

All Adults Members

As required, the PHA shall have all family members 18 years of age and older complete and sign the statement of assets which will show each asset, and the amount of income expected from the asset. This amount will be included in the family's income.

Addition to Households

Whenever a family member is added, a PHA shall obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, a PHA shall obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the PHA is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

For assets disposed of at less than fair market value for two years preceding the effective date of admission or the certification, PHA will accept a self-certification from the family including the assets disposed, the date of disposition and the amount received for the asset.

Asset Disposed of for Less than Fair Market Value/Family Declaration

Families must sign a declaration form at admission and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

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

7-I.P. SOCIAL SECURITY ADMINISTRATION BENEFITS

PHA Policy

PHA may use EIV, UIV and/or benefit letters to verify SS and SSI benefits. Benefit letters may not be dated more than 120 days from the date of submission to PHA.

PHA will use EIV as the preferred source for verification of SS and SSI benefits for participants and UIV or benefit letters for applicants.

Additionally, PHA will use UIV or benefit letters if EIV is not available or if the tenant disputes the EIV information for SS and/or SSI.

When the monthly benefit amount provided by EIV and the benefit letter do not identify the benefit for the upcoming year, PHA will use the Cost-of-Living Adjustment (COLA) excerpt from the Social Security Administration (SSA) website to verify the monthly benefit. Generally, this policy will be applicable.

To verify the benefits of applicants: The PHA will request a current (dated within the last 120 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the PHA.

To verify the benefits residents: The PHA will obtain information about benefits through HUD's EIV system and confirm with the residents that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives benefits. If a family member is unable to provide the document, the PHA will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the PHA.

7-I.Q. VERIFICATION OF UNEMPLOYMENT

PHA Policy

Generally, if EIV reveals current unemployment benefits, PHA will verify unemployment benefits with a tenant supplied benefit letter. Third party written verification forms will not be sent as there is a service charge for the verification. The PHA will follow the requirements of the HUD's Third-Party Descriptions and Guidance. The family will be responsible for providing the PHA with acceptable written third-party verification supplied to them.

7-I.R. VERIFICATION OF WELFARE BENEFITS

PHA Policy

PHA will use the State of Pennsylvania's electronic database to verify Public Assistance (PA) benefits. If the PA database is unavailable, PHA will request third-party verification from the local welfare office.

For applicants, PHA may use the welfare database to verify the State Supplementary Payment.

The PHA will follow the requirements of the HUD's Third-Party Descriptions and Guidance. The PHA will also accept written third-party documents supplied by the family as verification of income.

7-I.S. VERIFICATION OF PENSION, OR OTHER INCOME

PHA Policy

The PHA will follow the requirements of the HUD's Third-Party Descriptions and Guidance. The PHA will accept written third-party documents supplied by the family as verification of income, or the PHA's traditional third-party documents.

7-I.T. VERIFICATION OF ALIMONY AND CHILD SUPPORT

PHAs must count as income alimony and child support amounts received, such as part of divorce or separation agreement. HUD strongly encourages PHAs to determine in their policies what documents are required to show what the family receives. For example, if the household has filed with the local support enforcement agency, printouts from the agency may indicate the frequency and payments received.

PHA Policy

PHA will verify child support using the verification hierarchy. When there are minors in a family and/or a new minor is added to the family and both parents/guardians do not reside in the family, PHA staff must request third-party verification of court ordered child support from Family Court. If there are no minors in the family, PHA will not request verification from Family Court.

The methods the PHA will use to verify alimony and child support payments differ depending on payments made. The underlying goal is to anticipate what income will be received over the next 12 months.

For alimony, the PHA will accept as verification court-ordered documents of divorce or separation showing frequency and amount of payment to anticipate annual income for the next 12 months, including any court printout of payment.

For child support, if the household has filed with the local support enforcement agency, printouts from the agency showing frequency and amounts of payments received will be accepted as verification to anticipate annual income for the next 12 months. Families are not required to undertake independent enforcement action.

If a family reports not receiving support payments, and the support printout shows that no payments have been made in the past 30 days, the PHA will not include child support in annual income.

If a family reports that they are receiving support payments and the printout shows that payments have been made in the last 3 months, regular or irregular payments, the PHA will take the total amount paid in the past 3 months and annualize by multiplying by 4 to get the anticipated annual income.

Any lump-sum payment over \$1000 in the past 3 months will be removed prior to annualizing, then added back to the annualized amount.

When determining the last 3 months of payments, the PHA will look at the date the printout was printed to determine a fair average of 3 full months of payments. For example, if the printout is dated May 25, the PHA will not use any payments made in the month of May, rather it will use the months of April, March, and February. Nevertheless, since child support can be one of the most difficult types of income to calculate, the PHA will use any current available information from the local support enforcement agency printout, or court ordered.

For voluntary support, the family must provide the name, address, and phone number of the parents paying for the voluntary support. Once the required information is received, the PHA will send a PHA format Voluntary Support Verification. If efforts to verify by mail, email, or phone call have failed, then the family is to provide a self-certification to anticipate annual income or to remove voluntary support from family annual income. See Part V. Exhibit 7-5.

7-I.U. RETIREMENT ACCOUNTS

Retirement Plan 24 CFR 5.609(b)(26)

Income received from any account under an IRS-recognized retirement plan (example(s) IRA, 401(k), and retirement plans for self-employed individuals are excluded. **However**, any distribution of periodic payments from these accounts shall be income at the time they are received by the family. Retirement accounts include individual retirement arrangements (IRAs), employer retirement plan, and retirement plan for self-employed individual.

PHA Policy

To determine any distribution of periodic payments for these accounts, the PHA will follow the requirement of the HUD's Third-Party Descriptions and Guidance. The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts, or PHA's traditional third-party documents.

7-I.V. ZERO INCOME REVIEWS

A “zero income review” is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household’s expenses. **HUD does not require PHAs to conduct periodic zero income reviews.** In calculating annual income, PHAs must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)). **PHAs perform an interim reexamination only due to an increase in the family’s adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)). PHAs that will continue to perform zero income reviews must update local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family’s income is not reflected on the form HUD-50058.**

PHA Policy

A Zero Income family is one where no family member receives any income, contributions, and/or benefits on his/her own behalf or on behalf of another individual in the family. Where a full-time student, other than the head of household, co-head or spouse is working and the earned income on behalf of that student is the only income for the family, PHA will not treat this family as a zero-income family even though all the income is excluded. **Note:** In-kind Income to pay bills will be considered income. See Chapter 6, Part IX: Exhibit 6-1 Income Exclusions – 1-f. Nonrecurring Income: In-Kind Donations – PHA Policy.

PHA opted not to conduct periodic zero income reviews. **However**, the PHA will require the following when the family claims zero income:

Completion of a zero-income statement by each adult family member.

Completion of a Zero Income Questionnaire for In-Kind Income signed by the head of household and co-head to determine the in-kind income amount to be included in the family annual income. This form will only be used when there is no income or benefits in the entire household. It will be used at admission, annual reexaminations, or interim examinations according to tenant reporting “no income in the entire household, or staff noticing there is no reported income in the entire household.”

EIV checks to confirm that no family member has any income. PHA will use the EIV Income Report and the EIV No Income Report.

Third-party verification to the Family Court to confirm that no child support is being paid to any minor in the household.

PHA will continue to use and follow the required HUD’s Third-Party Verification Descriptions and Guidance/Verification Hierarchy from Level 6 through 1.

Tenants will be charged retroactive rent if they fail to report any changes of income that are deemed a reexamination in accordance with the PHA's policies noted in Chapter 6 and Chapter 9.

7-I.W. VERIFICATION OF EXCLUDED INCOME

To reduce administrative burdens on PHAs, HUD is providing guidance and clarification on the requirements for verifying excluded income. For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA is not required to:

- Verify the income using third-party verification.
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058.

PHAs may accept an applicant or participant's self-certification as verification of excluded income. The PHA application and reexamination questionnaire documentation may serve as self-certification of excluded income. PHAs have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion. Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (**SNAP**) benefits, formerly known as food stamps.
- **Income of a live-in aide.** For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058.

PHA Policy

Unless necessary, PHA opted not to verify or report on form HUD-50058 income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD. As indicated, the PHA is no longer required to: verify the income using third-party verification, document in the tenant file as to why the third-party verification was not available or report the income on forms HUD-50058.

The PHA will only verify income using third-party verification if necessary to determine if a source of income qualifies for exclusion.

For applicants or participants, the PHA application and reexamination questionnaire documentation will serve as self-certification of excluded income reported. For a complete list of income exclusions, see 24 CFR § 5.609(b). Note: A detailed discussion of excluded income is provided in Chapter 6.

7-I.X. FILE DOCUMENTATION

The PHA 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 PHA has followed all 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.

PHA Policy

The PHA will document, in the family file, the following:

Reported family annual income, value of assets, and deductions will be documented on the applicants' applications and/or tenants' annual and interim reexamination questionnaire forms. The figures used in income and rent calculation will be noted on each verification received to support the HUD50058 calculation entries and to enable a staff member or HUD reviewer to understand the process followed and the conclusion reached.

For annual reexamination, the PHA will document verification process on the PHA's PH Reexamination Checklist for Documentation form. All documentation will be placed with 50058s to support all income entries and verification attempts and determinations.

Failure to Provide Verification:

Applicants' and assisted families' failure to supply in a timely manner any certification, release, information, or documentation on family income, assets, or composition needed to process admission, annual reexamination, or interim reexamination, will be grounds for denial of housing assistance and termination of tenancy from housing assistance programs.

7-I.Y. STREAMLINED INCOME DETERMINATION FOR FAMILIES ON FIXED SOURCES OF INCOME [24 CFR 960.257 (b)(3)]

For any family member with fixed sources of income, the PHA may elect to determine that family member's income based on a streamline income determination, by applying the verified cost of living adjustment (COLA) or the current rate of interest to the previously verified or adjusted income.¹⁵ Applying a mandatory inflation factor may result in an increase in requests for interim reexamination if the family did not actually receive an increase. If the PHA chooses to implement this streamlined method of income determination at annual reexamination, they must first adopt this provision in the ACOP and after the initial year of implementation, fully reverify and recalculate all income every 3 years.¹⁶ Non-fixed sources of income remain subject to annual third-party verification for families with less than 90% of their income coming from fixed sources.

PHA Policy

PHA opted not to implement this streamlined method of income. The PHA opted to implement the Verification Hierarchy and Techniques described above in 7-I.J and 7-I.K.

STREAMLINED INCOME DETERMINATION FOR FAMILIES WITH 90% OR MORE FIXED INCOME SOURCES [24 CFR 960.257 (c)(3)(i)] [24 CFR 960.257 (c)(5)]

At annual reexamination, the PHA may choose to implement a streamlined income determination with 90% or more of the family's adjusted income consisting of fixed income sources. For families with 90% or more of their income coming from fixed sources, the PHAs adopting this option do not have to do annual recertification of all sources of a family's income. Instead, the PHAs must apply the appropriate COLA to fixed sources.¹⁷ Under this streamlining option, all income sources must be fully verified and recalculated every 3 years.¹⁸ The PHAs are still required to follow up on any discrepancies or new sources of income reported in HUD's Enterprise Income Verification system (EIV).¹⁹

Streamlined annual reexamination for fixed sources of income:

Regulation: 24 CFR §§960.257, 982.516

HUD Notice PIH 2016-05 Issued April 7, 2016

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing.

Description of change:

This provision offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income.

Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this Notice, the term “fixed income” includes income from:

- Social Security payments include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI).
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained. This provision is available for program participants only and may be implemented at the family’s next annual reexamination following adoption of the provision in the PHA’s ACOP or Admin. Plan. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously. In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only because of COLA or due to interest generated in a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one 10 income amount, as previously adjusted by a COLA). **For any family member whose income is determined pursuant to a streamlined income determination, third-party verification of all income amounts for all family members must be performed at least every three years.** This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third-party verification of all income amounts. This also means that if a family member with a fixed-income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant's first reexamination following PHA's adoption of provision

	Under previous regulation	Under this regulation
January 2016 – Baseline Yeast	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)
January 2017	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only because of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-provided, third party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification.</p>
January 2018	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% fixed sources.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or form tenant-provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification.</p>

January 2019	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>
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Background: Existing guidance (Notice PIH 2010–19) explains how to identify and verify existing sources of income using HUD's Enterprise Income Verification system. Non-fixed sources of income remain subject to full income-verification requirements. For example, if a family member has both fixed and non-fixed sources of income, this provision may be applied only to the fixed sources of income.

Mandatory or discretionary: Discretionary. Prior to adopting streamlined income determinations, PHAs must amend any policies governing income determinations to identify the sources of income that will be considered eligible for a streamlined income determination.

Note: A PHA that adopts this provision must continue to obtain family member signatures on the consent forms required by 24 CFR 5.230, as if this provision had not been adopted.

Effective date: April 7, 2016

Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in Attachment B (Calculating Income) of this notice.

Under current program regulations, PHAs may elect to apply a streamlined income determination for families receiving fixed income using the methodology below.

For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When 90 percent or more of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income need not be adjusted and must not be adjusted by COLA, but PHAs may choose to adjust sources of non-fixed income by the amount determined based on third-party verification. PHAs have the discretion to either adjust the non-fixed income

or carry over the calculation of non-fixed income from the first year to years 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice. When less than 90 percent of a family’s unadjusted income consists of fixed income, owners using streamlined income determinations must apply COLA to each of the family’s sources of fixed income. The PHA must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA action at each point in time in the streamlining cycle.

Table II: PHA Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source: <ul style="list-style-type: none"> • Fixed Income: Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • Non-fixed income when fixed income is more than 90 percent of unadjusted income: PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year’s calculation. • Non-fixed income when fixed income is less than 90 percent of unadjusted income: PHA/MFH Owner must adjust the income using third-party verification. • Assets and Deductions: PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over

PHA Discretion: PHAs have the discretion to implement streamlined income determinations under current program regulations.

PHA Policy

PHA opted not to implement this streamlined method of income. The PHA opted to implement the Verification Hierarchy and Techniques described above in 7-I.J. and 7-I.K.

MANDATED AND DISCRETIONARY USE OF HUD's ENTERPRISE INCOME (EIV) SYSTEM - Regulation: 24 CFR § 5.233

The regulation clarifies that PHAs must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs are still required to use EIV in its entirety, including using all the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs are not required to investigate discrepancies resulting from the Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs when the new reports are ready for use.

The table below provides guidance on the frequency with which individual EIV reports must be utilized by a PHA.

Table: Mandatory and Discretionary Use of EIV by PHAs

Report Title	Report Description	Frequency of Use	PHAs
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended the program participation.	PHAs only
Deceased Tenants Report	Identify tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs
Existing Tenant Search	Identify applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs

Failed EIV Prescreening Report	Identify tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs
SSA Identity Test	*PHAs that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identify tenants that failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs
Income Information for PIH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identify tenants who: <ul style="list-style-type: none"> • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies. 	Must be used at annual reexamination; not required at interim reexaminations. PHAs may be used, if desired. PHAs are not required to use at annual reexamination if they use Safe Harbor verification to determine the family's income. New Admission: Review new admissions within 120 days after the move-in information is transmitted to HUD to confirm/validate the income reported by the household.	PHAs

<p>Income Validation Tool Report for PIH Programs</p>	<p>Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.</p>	<p>PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition.</p> <p>PHAs may use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan.</p> <p>PHAs are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination.</p>	<p>PHAs</p>
	<p>Note: PHA must rely on other documents (e.g., pay stubs, benefit aware letters, etc. to verify families' income eligibility before admission.</p>		
<p>Multiple Subsidy Report</p>	<p>Identifies tenants who may be receiving rental assistance at more than one location.</p>	<p>At least quarterly</p>	<p>PHAs/MFH Owners</p>

<p>New Hires Report</p>	<p>Identifies tenants who have new employment within the last six months. Report is updated monthly.</p>	<p>PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification to determine the family's income. PHAs that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA policy requires an IR for increases in income after an IR decrease, then the PHA must review the report quarterly after the family's IR decrease.</p>	<p>PHAs</p>
<p>No Income Reported by HHS or SSA</p>	<p>Identify tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must</p>	<p>As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.</p>	<p>PHAs</p>
	<p>obtain written, third-party verification of any income reported by the tenant.</p>		

PHA Discretion: PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income.

PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan.

Any policy adopted by a PHA must be applied consistently to all households.

PHA Policy

As required, the PHA will use the HUD's EIV system in its entirety at annual reexaminations.

The PHA opted to use EIV at interim reexamination of family composition and income, only when necessary, such as suspected misrepresentation of income or to verify hired date if needed, and any information that the assisted family is unable to provide such as changes in SSA benefits, etc.

The PHA will use the HUD's EIV system in its entirety as required on the above Table of Mandatory and Discretionary Use of EIV that provides guidance on the frequency with which individual EIV reports must be utilized by the PHA.

The PHA will retain EIV income reports in the tenants' files with the applicable reexaminations.

7-I.D. DETERMINATION OF INCOME USING OTHER MEANS TESTED PUBLIC ASSISTANCE (i.e., "Safe Harbor")

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

PHAs may determine a family's annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low-Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The annual income need not be broken down by family members or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR § 5.618.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months.

HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA. This satisfies all verification date requirements for Safe Harbor income determinations.

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date.
- Program administrator's signature date.
- Family's signature date.
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the PHA for purposes of the HOTMA Safe Harbor provision.

PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work because of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA with the

Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA mailing a verification form to the third party to complete. If the PHA does not accept Safe Harbor documentation, it is unable to obtain Safe Harbor documentation, or if the family disputes the other program’s income determination, the PHA must calculate the family’s annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA uses a Safe Harbor determination to determine the family’s income for an income, then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA’s transaction. This might mean that a certain source of income was not considered in the family’s income, because the other program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD’s rules that occur after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA.

Example: Acceptable Verification of Safe Harbor

Background: A PHA decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family’s annual reexamination interview, the Smiths provide the reexamination specialist with an original print-out from the agency that administers SNAP benefits. The printout reflects the Smith’s correct family size of 4, and current household composition, and it states the total amount of the family’s earned income. The annual income is \$19,500 (\$812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter Home

Address: 123 Main Street, USA Household

members:

Last Name	First Name	Date of Birth	Relationship
Smith	Hunter	01/01/1974	Head of Household
Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son

Budget Calculation

Monthly Earned Income: \$1,625

Total Unearned Income: \$0

Standard Deduction: \$112.50

Monthly childcare/dependent care: \$50

Allowable medical deductions: \$0

Result: The PHA may use this printout to determine the Smith's annual income for their annual reexamination. The PHA lists \$19,500 as the annual income for the family's reexamination (\$1,625 monthly earned income + \$0 unearned income x 12 months). The PHA **does not** need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.

PHA Discretion: PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHA Policy

PHAs opted not to accept or use determinations (verification) of income from other federal means-tested forms of assistance (i.e., Safe Harbor). PHA opted to use HUD's verification hierarchy.

7-I.E. VERIFICATION HIERACHY

HUD's Notice PIH-2023-27 – HA 2023-10 Issued February 2, 2024

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

PHAs are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income.

Third-party verification may be obtained directly from the third party or through the family. PHAs must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table below) that describes verification documentation from most acceptable to least acceptable.

The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification **except** instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed \$50,000).

A description of each verification technique and additional guidance follows Table.

Table: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	<p>Highest</p> <p>PHAs must pull the EIV Income Report for each family at every Annual Reexamination, unless you use Safe Harbor documentation to verify the family's income.</p> <p>EIV may be used as the sole verification of Social Security income.</p> <p>EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.</p>
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	<p>Highest</p>
4	<p>Written, third-party verification from the source, also known as "tenant-provided verification."</p> <p>OR</p> <p>EIV + Self-Certification</p> <p>PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)</p>	<p>High</p> <ul style="list-style-type: none"> • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	<p>Medium</p> <ul style="list-style-type: none"> • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.

2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	<p>Low</p> <ul style="list-style-type: none"> • Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000. • May be used as highest form of verification when the family reports zero income.

Third-Party Verification Descriptions and Guidance

Upfront Income Verification (UIV) (Level 6/5):

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 several individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique and that all PHAs are required to use EIV in its entirety (see below Mandated and Discretionary Use of EIV). PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.

Written, Third-Party Verification (Level 4):

An original or authentic document generated by a third-party source dated **within 120 days of the date received** by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following:

Pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

PHAs are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they are relying on pay stubs for Level 4 documentation. For new income sources or when two pay stubs are not available, the PHA

should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

EIV may be used as Level 4 verification and may be used to calculate income if the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income report must be pulled within 120 days prior to the effective reexamination date.

Written, Third-Party Verification Form (Level 3):

This practice is also known as "traditional third-party verification." This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email. The PHA may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Oral Third-Party Verification (Level 2):

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHA staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

The PHA may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Non-Third-Party Verification Technique: Self-Certification (Level 1):

The tenant submits a signed statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques. When the PHA relies on

self-certification to verify income or expenses, the PHA must document in the tenant file why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

Sample language: “I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)”

PHA Policy

PHA opted to use and follow the required HUD’s Third-Party Verification Descriptions and Guidance/Verification Hierarchy from Level 6 through 1. However, if two (2) paystubs do not reflect an accurate accounting of the member’s annual income, the PHA shall request more paystubs. See Chapter 6, 6-IV.A. Annualizing Income.

Up-front income verification (UIV) refers to the PHA’s use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA. There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA’s informal review/hearing processes.

Any document used for verification must be original (not photocopies) and generally must be dated **within 120 days of the date received** by the PHA. The documents must not be damaged, altered or in any way illegible. The PHA will accept documents dated up to 120 days 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 PHA would accept the most recent report. PHA will accept printouts from web pages which may be considered original documents. The PHA staff member who views the original document will make a photocopy, write their initials and date on the photocopy received.

When Tenant Provides Late Third-Party Verification:

When the tenant provides late third-party verification as requested by the PHA, and the timeframes for submission have exceeded 10 days, the PHA will use the old verification or information from documents on a provisional basis to conduct an estimated reexamination. If the PHA 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 PHA will conduct an interim reexamination to adjust the figures used, regardless of the PHA’s interim reexamination policy. If PHA is unable

to verify tenant's income, assets, and deductions, and tenant fails to provide or cooperate with the required verifications, or reexamination process, **the PHA will perform an estimated reexamination and serve the tenant with a lease termination notice noting the lease violations.**

For Self-Certification of Income and/or Expenses:

Tenant self-certification will be used as the last resort. When information cannot be verified by tenant-provided third-party verification and the PHA's traditional third-party verification, family members will be required to use PHA's self-certification form attesting to the accuracy of the information they have provided to the PHA.

When the PHA relies on self-certification to verify income or expenses, the PHA will document in the Tenant Self-Certification form why tenant could not provide tenant-provided third-party verification and why traditional third-party verification was not available and attached any proof such as copies of the traditional third-party verification attempts made to obtain verification, and why oral third-party verification was not available.

Note: When adult members report zero income, the PHA will require the head of household and adult family members to sign a BHA format Zero Income Statement that will be used as the highest form of verification.

7-I.F. Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation) Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

PHAs may determine net family assets based on self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination.

PHAs are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs accept self-certification of net family assets at reexamination, the PHA **must** fully verify the family's assets every three years.

PHAs may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year. The family's self-certification must state the amount of income the family anticipates receiving from such assets.

The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs must clarify, during the self-certification process, which assets are included/excluded from net family assets. PHAs may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example: Self-Certification of Net Family Assets

We know from Example above that the Cross-family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total non-necessary personal property			\$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	\$0	\$3.50
Real Property	N/A	N/A
Total:	\$0	\$3.50

The PHA may accept a self-certification of assets from the Cross family if the PHA has a policy to do so (see paragraph below this example for PHA Discretion on accepting self-certification). **The self-certification must include any anticipated income from assets.** In this example, if the PHA is accepting self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).

PHA Discretion: PHAs are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation. PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. PHAs must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept self-certification of assets equal to or less than \$50,000, which amount will be adjusted annually by HUD.

PHA Policy

PHA opted to use self-certification of net family assets for families with net family assets that are equal to or less than \$50,000, or as adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and at reexamination.

When the PHA accepts self-certification of net family assets at reexamination, the PHA will fully verify the family's assets every three (3) years. PHA will follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification will state the amount of income the family anticipates receiving from such assets. The actual income declared by the family will be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHA will clarify, during the self-certification process, which assets are included/excluded from net family assets. PHAs will combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

For Property Ownership at Admission:

The PHA will accept self-certification that the family does not have any present ownership interest in any real property. All adults 18 and older must sign the PHA's self-certification at admission and reexamination and must report any changes.

For admission, the PHA will use the Applicant Self-certification form noted in Part V – Exhibit 7-2 that ask about ownership, and the elements of the restrictions (such as a legal right to reside in, and the effective legal authority to sell the property, as well as follow-up questions related to other elements noted on PHA's self-certification. If the family declare a property and asks for an exemption because of a family member is a victim or domestic violence, dating violence, sexual assault, or stalking, the PHA will accept self-certification of the family member, apply the 24 CFR 5.2007 confidential rules and restrictions on documents request, and use Form HUD 5380 Notice of Occupancy Rights

under VAWA and Form HUD 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, and Documentation.

7-II.E. ASSETS AND INCOME FROM ASSETS

Documentation of Assets – 24 CFR 5.618 (b)

For documentation of net family assets **under \$50,000**, the PHA may accept self-certification from the family that assets are under that amount.

- Certification must include any expected income from assets. (actual returns only).
- No further documentation is required by the PHA for the net family asset restriction.
- Assets must be verified every three (3) years.

PHA Policy:

At admission and re-examination, PHA will accept signed self-certification from the family that assets are under \$50,000 and will verify assets every three (3) years unless there is a discrepancy or suspected misrepresentation of assets.

For families with assets that exceed \$50,000, the applicant or tenant must provide current third-party verification of all assets as requested by the PHA. The PHA will require a minimum of **one** statement that reflects the current balance of the banking/financial account. Verification must not be more than 120 days from the date received by the PHA. PHA will follow the required HUD Third-Party Description and Guidance.

For Property Ownership:

For Admission: The PHA will accept the Applicant Self-certification to determine whether a family has present ownership in real property for the purpose of determining whether the family is compliant with the asset limitation provision.

If a family declares present ownership in real property, PHA will seek third-party verification of the following, as applicable: whether the family has the legal right to reside in the property; and whether the family has the effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence.

PHA has established its self-certification Statement of Assets form with the statutory self-certification question that asks about any ownership of property as well as the follow-up questions related to other elements. See Part V. 7-2 Exhibits.

If the family declares a property and asks for an exemption because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking:

- The PHA will accept self-certification of the family member and apply 24 CFR 5.2007: Confidentiality rules and restrictions on documents requests, Form HUD

5380 Notice of Occupancy Rights under VAWA and Form HUD 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

For Tenants: The PHA will accept self-certification that the “family does not have any present ownership interest in any real property.” See Part V. 7-3 Exhibits. If the family has present-ownership interest in any real property, the family will be required to provide verification as requested by the PHA.

For Assets Disposed of for Less than Fair Market Value – 24 CFR §§100 and 5.603

In determining the value of net family assets, the PHA will 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, more than the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home will be included in the calculation of net family assets for two years following the transfer of property.

If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in the net family assets for two years following the transfer of property.

For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example \$50,000, would be counted in net family assets for two years from the date of the property’s transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

The PHA will require the applicant or assisted families to certify whether any assets have been disposed of for less than fair market value in the preceding two years.

The PHA will verify only those certifications that warrant documentation.

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

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

PART II: VERIFICATION OF MANDATORY DEDUCTIONS

7-II.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

See Chapter 6 (Part II.) for a full discussion of this deduction.

PHA Policy

The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child.
- Any person aged 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 (Part II.) for a discussion of the deduction.

PHA Policy

The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-II.B. UNREIMBURSED HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in chapter 6 Part VI.

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Medical insurance premiums continue to be eligible for health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

PHA Policy

Unreimbursed Health and Medical expense deduction will only be permitted for households in which the head, spouse, or cohead is at least 62 or a person with disabilities.

The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter.

The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA will verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.

Applicants and tenants are responsible for providing their unreimbursed health and medical expenses.

To calculate anticipated unreimbursed health and medical expenses for the upcoming 12 months, the PHA will accept the following verifications.

- In Written third-party documents provided by the family, such as pharmacy printouts, printouts from hospital and medical professionals showing expenses actual paid in the prior 12 months.
- Applicant and tenant's personal checks clearly show the name of hospital or medical professionals' names.
- Applicant and tenant's third-party medical insurance premiums or long-term care premiums that are paid or anticipated during the period for which annual income is computed.

7-II.C. UNREIMBURSED REASONABLE ATTENDANT CARE AND AUXILIARY APPARATUS

Policies related to unreimbursed reasonable attendant care and auxiliary apparatus expense found in Chapter 6 (Part VI).

Regulation: 24 CFR § 5.611(a)(3)(ii) C2 Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person

who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing.

Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking.

Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

To claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA Policy

To be eligible for the expenses' deduction, the costs must not be reimbursed by another source.

The amount of the deduction will be verified following the standard verification procedures described in Part I.

Attendant Care

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks, payment printouts.
- Traditional Third-party verification form signed by the provider if family-provided documents are not available.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Traditional Third-party verification form signed by the provider if family-provided documents are not available.

The PHA will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.

Family Member(s) Permitted to Work

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

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

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

Verification for General Hardship Relief for Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense:

Tenants must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, **or** the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination. Third-party verification will be required as follows:

- Tenants must provide third-party verification that they are awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits, or welfare benefits. In addition, tenants must provide third-party verification of their unanticipated large medical bill or funeral expenses that exceed 5% of their family income.
- Tenants must provide third-party verification of the family's income decrease because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster that caused family to experience an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments.
- Tenants must provide third-party verification of an unexpected accident. In addition, third-party verification of increased eligible health and medical expenses equal to 6 percent of family annual income.

7-II.D. UNREIMBURSED CHILDCARE EXPENSES

Policies related to unreimbursed childcare expenses are found in Chapter 6 (Part VI).

The amount of the deduction will be verified following the standard verification procedures described in Part I.

PHA Policy

The PHA will verify that:

- The child is eligible for care (12 or younger).
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

If needed, the family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA will verify that the family members that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

Information to be Gathered:

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

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

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further his or her education by childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The PHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 Part 6-VI).

The PHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the childcare 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 childcare costs can be deducted. The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

For General Childcare Hardship Exemption

The PHA allows the tenants to continue to receive the childcare expenses deduction as required if the tenant continues to pay childcare expenses while not receiving earned income as described in Chapter 6 Part VI.

Tenants must demonstrate to the PHA that they are unable to pay their rent based on their circumstances. They must provide verification for childcare hardship exemption as follows:

- Tenants must provide third-party verification from the childcare center stating that they have a long waiting list, and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the

tenant member resumes employment status. Also, that the tenant continues to pay childcare expenses while not receiving earned income.

The PHA will allow the tenant to continue to receive the childcare expenses deduction for 60 days as the family member is anticipated to enroll in an education facility in the next two months being that an assisted tenant is also eligible for childcare deducted for furthering their education.

- The tenant must provide third-party verification from the Educational Facility stating that the tenant plans to enroll in an educational facility in two months.
- In addition, the tenant must provide third-party verification from the childcare center stating that they have a long waiting list and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the family member starts their education. Also, that the tenant continues to pay childcare expenses while not receiving earned income.

7-II.E. VERIFICATION OF FULL-TIME STUDENT STATUS

PHA Policy

PHA will consider full-time student status as enrollment with a course load of 12 or more credit hours.

Where an institution uses less than 12 hours as a standard for full time status, PHA will request and obtain third party verification to confirm full time student status.

PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports childcare expenses to enable a family member to further his or her education.

PHA will verify all earned income for all full-time students.

7-II.F. VERIFICATION OF DISABILITY

The PHA must verify the existence of a disability to allow certain income deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].

The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information,

the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov. Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

PHA Policy

Disability income that is awarded and approved by the Social Security Administration may be used to verify a family member's disability and eligibility for the disabled family deduction. Most often this information is provided through HUD's Enterprise Income Verification (EIV) system. Individual who received SS Disability or SSI benefits through the Social Security Administration are considered disabled. Therefore, this is no need to verify disability.

Family Members Not Receiving SSA Disability Benefits

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

If head of household, co-head or spouse claims to be disabled and does not receive disability income, PHA must conduct a one-time third-party verification to confirm disabled status qualification for the deduction. 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.

**PART III:
VERIFICATION OF FAMILY INFORMATION**

7-III.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA 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 Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card See below.	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed in the presence of a PHA representative.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-III.B. VERIFICATION OF SOCIAL SECURITY NUMBER (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals' experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation to obtain a replacement Social Security card. HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD.

PHAs must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required.

If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

PHA Policy

PHA will continue to attempt to gather third-party verification of SSN prior to admission. PHA opted not to use the option of accepting a self-certification. However, PHA will accept tenant-provided third-party documents with the applicant's name and social security number printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation.

PHA will accept the following as verification of an applicant/tenant's Social Security Number if the document includes the name of the individual and his/her SSN and is original:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual.
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

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

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, and otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

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

When a resident requests to add a new household member who is under the age of 6 and has an SSN assigned, the resident must provide the complete and accurate SSN assigned. The PHA may not add a new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

The PHA will verify each disclosed SSN by obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers. Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder. Social security numbers will be verified only once during continuously assisted occupancy.

7-III.C. VERIFICATION OF DATE OF BIRTH

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy

If an official birth certificate cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member.

PHA may accept the following as verification of an applicant/tenant's Date of Birth if the document includes the name of the individual and his/her Date of Birth (DOB):

- An original SSA issued document with the DOB.
- A current state-issued driver's license with a DOB.
- A current identification card issued by a federal, state or local agency with the DOB.
- A current Passport.
- A current identification card issued by a medical insurance company with the DOB.
- A current identification card issued by an employer or trade union with the DOB.
- Current school, hospital, and/or medical records with the DOB.
- Retirement benefit letter with the DOB.
- Life insurance policies with the DOB.
- Court record with the DOB (real estate, tax notices, marriage and divorce, judgment or bankruptcy records).

Age must be verified only once during continuously assisted occupancy.

7-III.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

For Marriage:

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

In the case of a common law marriage, Pennsylvania does not recognize common law marriages, but these living situations were considered legal at one point. The law was

abolished on January 2, 2005, and so, anyone that entered a common law marriage prior to that date is still considered common marriage today.

Separation or Divorce

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as lease or utility bill, income source letter showing current address and a current state ID, last resort is a self-certification).

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-III.E. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible people. See the Eligibility chapter for a detailed discussion of eligibility requirements.

HUD and PHA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

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

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

PHA Policy

PHA will comply with the requirement and have a declaration signed personally by any family member 18 or older and by the guardian.

See Chapter 3 Part IV.

7-III.F. VERIFICATION OF PREFERENCE STATUS

See Chapter 4, Part III: 4.III.B

7-III.G. VERIFICATION OF REASONABLE ACCOMMODATION

See Chapter 2, Part IV-J.

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations. The lease incorporates provisions, in addition to those outlined in the ACOP, which include requirements related to the rent payments, security deposits and other tenants' obligations.

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the PHA may conduct additional inspections in accordance with PHA policy.

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

This chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.

This chapter is divided into four parts as follows:

Part I: Leasing: This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, lease modification, and payments under the lease.

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

Part III: Guests: This part describes the PHA's policies for guests.

Part IV: No Smoking Policy: PHAs must adopt smoke-free policies, which HUD required to be implemented no later than July 30, 2018. This part describes the PHA's No Smoking Policy.

PART I: LEASING

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.

8-I.A. LEASE TERM

The term of the initial lease must be for a period of 12 months. Then the lease will be renewed on a month-to-month basis. The PHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].

For policies on leasing **terms** and requirements for families whose income has exceeded the over-income limit for 24 consecutive months. **See Chapters, Chapter 6, Chapter 9, and Chapter 13, Part II, 13.II.J. 13-III.C.**

8-I.B. LEASE ORIENTATION

PHA Policy

After unit acceptance but prior to occupancy, a PHA representative will conduct a lease orientation with the family. The head of household and co-head are required to attend.

Orientation Agenda

When families attend the lease orientation, the following will be provided according to discussion:

- A copy of the lease,
- A copy of the pet policy, if applicable.
- A copy of the PHA's grievance procedure
- A copy of the house rules
- A copy of the PHA's schedule of maintenance charges
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A copy of the PHA's smoke free policy

A notice that includes the procedures for requesting relief and the PHA's criteria for granting requests for relief for excess utility surcharges

Topics to also be discussed and explained to all families include:

Applicable deposits and all other charges

Review and explanation of lease provisions

Unit maintenance requests and work orders

The PHA's reporting requirements

Review and explanation of occupancy forms

Community service requirements

Family choice of rent

VAWA protections

Smoke-free policies

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the PHA, 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 PHA unit to another.

All members of the household with the right to occupy the unit shall be listed on the lease. The lease shall specify the unit to be occupied, effective date, rent to be charged, utilities, and other provisions as required by state and federal law, and PHA policy.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

PHA Policy

The head of household and co-head will be required to sign the public housing lease prior to admission or transfer.

An appointment will be scheduled for the parties to execute the lease. The head of the household will be provided with a copy of the executed lease and the PHA 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 PHA assistance.

The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR 966.4(a)(3)].

PHA Policy

The head of the household and co-head may not remove one another's name from the lease without mutual consent. The head of the household and/or co-head may add or remove other family members from the lease.

See Chapter 2, Part III: Violence Against Women Act Protection policies for VAWA exception to this policy.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be modified to reflect the removal of the household member.

If a new member is approved by the PHA to reside in the unit, the lease will be modified to reflect the addition of the new household member.

If at any time during the term of the lease agreement, a change in the tenant's status results in the need for changing or amending any provision of the lease either:

- A new lease agreement will be executed, or
- PHA will sign and issue a Notice of Rent Adjustment that reflects the tenant's signed request for rent change due change in family's income, assets, expenses, deduction, and family composition, or tenant's signed annual recertification of family's income, assets, expenses, deductions, and family composition.
- An appropriate lease addendum will be prepared and made as part of the existing lease.

All copies of such lease addendum are to be dated and signed by the head of the household and co-head and the authorized representative of PHA.

If a tenant transfers from one unit to another, a new lease will be executed upon the issuing of the dwelling unit keys to which the tenant moves.

8-I.E. MODIFICATION TO THE LEASE FORM BY PHA

The PHA may modify its lease from time to time. However, the PHA must give tenants thirty **(30) days'** advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least thirty **(30) days** in advance of the effective date of the new lease or lease revision. A tenant's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(1)(2)(iii)(E)].

PHA Policy

The PHA may modify its lease from time to time. However, the PHA will give tenants thirty **(30) days'** advance notice of the proposed changes and an opportunity to comment on the changes. The PHA will consider any comments before adopting the new lease modification.

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least thirty **(30) days** in advance of the effective date of the new lease or lease revision.

The tenant will have thirty **(30) days** to accept the revised lease. If the tenant does not accept the offer of the revised lease within the thirty **(30) days'** timeframe, the tenant's tenancy will be terminated for other good causes in accordance with the termination policies outlined in the ACOP, Chapter 13.

8-I.F. OTHER MODIFICATIONS (MATERIAL AND SERVICE COSTS)

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 must be provided with at least thirty days' written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must 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 must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

PHA Policy

When the PHA proposes to revise schedules of special charges (material and service costs), the PHA opted to post a copy of the notice in conspicuous place at the Family Development Office, Lynfield Office, Parkridge Office, all High-Rise buildings, and Central Office all tenants or applicants to review and comment.

8-I.G. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

PHA Policy

The PHA has opted to determine the security deposit fixed amount as follows:

- The amount of the security deposit will be equal to one month's rent, but not less than **\$50, or \$100 maximum**, whichever amount is lower, at the time of move-in, and must be paid in full prior to occupancy.
- The elderly or disabled family shall pay **\$50.00 [24 CFR 966.4 (b)(5)]**

Tenants must pay a security deposit to the PHA at the time of admission.

The PHA will hold the security deposit for the period the family occupies the unit. The PHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the PHA will refund to the tenant the amount of the security deposit, less any amount needed to pay the cost of

- Unpaid rent,
- Damages listed on the move-out inspection report that exceed normal wear and tear, and
- Other charges that are due under the lease.

The PHA will provide the tenants with a written list of any charges against the security deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the PHA will provide a meeting to discuss the charges.

Tenants must leave the unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to PHA. All keys to the unit must be returned to management upon vacating.

If the tenant transfers to another unit, the PHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.H. PAYMENTS UNDER THE LEASE

A. Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any changes in the amount of tenant rent and when the change is effective.

PHA Policy

The tenants' rent is due and payable on the first of every month. Rent payment may be made by check or money order or electronic payment, when applicable. The PHA will not accept rent payments in cash.

All rental payments received by PHA from tenants must be applied to past charges before the current month's rent is credited. Payment must be applied using the "first-in first-out" method.

If a family's tenant rent changes, the PHA 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.

B. Late Fees and Nonpayment

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and are collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their rights for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

If the tenant fails to pay their rent by the fifth day of the month, and the PHA has not agreed to accept payment later, a 30-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.

In addition, if tenants fail to make payment after the fifth day of the month, as noted in their lease agreement, a late fee of \$20.00 will be charged and will reflect on their next following month rent receipt

Notices of late fees will be in accordance with requirements regarding notices of adverse action. If the family requests a grievance hearing within the required timeframe, the PHA may not act for nonpayment of the fee until the conclusion of the grievance process.

If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid, and a returned fee will be charged to the tenant's account and will reflect on their next following month's receipt. Fees are stated on the PHA's lease agreement.

C. Utility Charges

Excess Utility Charges

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible 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 for special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must 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 must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

When applicable, families will be charged for excess utility usage according to the PHA'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 PHA may not act 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.

The PHA may grant requests for relief from surcharges from excess utility consumption of PHA-furnished utilities as a reasonable accommodation where the PHA deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, the PHA will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. The PHA will process such requests in accordance with Section 2-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the PHA representative with whom initial contact may be made by the resident) and the PHA's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

Utilities

If a tenant resides in a development where the authority does not supply electricity, natural gas, or heating fuel, an allowance for utilities shall be established, appropriate for the size and type of dwelling unit for tenant to pay directly to the supplier. If the allowance for utilities exceeds the total tenant payment, the PHA will pay the utility reimbursement to the tenant. [5.603]

PHA Policy

In the developments having individual utility company-read meters, the PHA may provide a utility allowance based on the size and type of unit occupied. Tenants will be responsible for paying his/her utility directly to the utility company. Approved allowances, if any, subtracted from the gross monthly rent. PHA will adjust the utility allowances on a yearly basis if applicable. Tenants will receive an amendment notice every time there is a change in the utility allowance.

Utilities shall be in the name of the head of household or co-head only. Residents will pay all utilities, related deposits and charges on the tenants' utility bills. Failure to maintain active utility service, for all utilities, in the name of the head of household or co-head will be considered breach of the lease.

D. Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)]. Schedules for special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tears are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their rights for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

When applicable, families will be charged for maintenance and/or damages according to the PHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

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 PHA may not act 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.

8-I.I. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]

PHAs in states, territories, or localities with existing minimum heating standards must use their respective local standards for public housing dwelling units.

For PHAs where state or local minimum heating standards do not exist, PHAs must use the HUD-prescribed heating standards specified in Notice PIH 2018-19.

PHA Policy

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

Minimum temperature:

If the PHA controls the temperature, the minimum temperature in each unit must be at least 65 Degrees. If the resident controls the temperature, the heating equipment must have the capability of heating to at least 72 degrees Fahrenheit.

Minimum temperature capability:

Provide heat between October 1st and May 15th at a minimum of 65° between 6:30 AM and 10:30 PM; 60° during the night and when the temperature is below 0°

Measurement:

Temperature measurements must be taken according to the following methodology: Local Weather forecast Lehigh Valley International Airport, PA.

PART II: INSPECTIONS

8-II.A. OVERVIEW

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

8-II.B. TYPES OF INSPECTIONS

It is the PHA responsibility to maintain the premises, building facilities, common areas and grounds, not otherwise assigned to the tenants in a decent, safe, and sanitary condition. PHA will provide inspections of the unit by management or qualified maintenance staff.

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

PHA Policy

PHA and the head of household or co-head will inspect the dwelling unit prior to occupancy. PHA will give the tenant a copy of the signed inspection form showing the conditions of the premises, interior and exterior as applicable and any equipment provided in the unit. PHA and the Head of Household or co-head shall sign the inspection form, and a copy of the form will be retained in the tenant's file.

PHA will correct any deficiencies noted on the inspection form before or shortly after the tenant moves in depending on the severity of the deficiency, at no charge to the new tenant.

The head of the household or co-head must attend the move-in inspection and sign the inspection form.

Annual Inspections [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The PHA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections.

These standards address the inspection of the site area, building systems and components, and dwelling units.

PHA Policy

The PHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) and BHA housekeeping standards. In addition, make notes of housekeeping standards observed.

Housekeeping Standard Inspections:

As indicated on the tenant's lease agreement, the PHA will inspect each unit at least annually to determine compliance with the standards. Tenants are notified in writing at least two (2) days in advance of the date and time of the inspection. The inspection will evaluate the housekeeping conditions, safety conditions, tenant's care of the dwelling unit and compliance with other obligations under the lease. The tenant will be informed in writing of the deficiencies found in the inspection and notified of any action required by the tenant to correct the deficiencies. Tenants will have thirty (30) days to correct any deficiencies. The PHA's housekeeping standards will be applied fairly and uniformly to all tenants. Housekeeping Standards are stated on the PHA's lease agreement.

Failed Housekeeping Inspections

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 PHA will provide proper notice of a lease violation.

A reinspection will be conducted within thirty (30) days to confirm that the resident has complied with the requirement to abate the problem.

Failure of a second inspection will constitute a violation of the lease terms.

Training will be available at no cost to any tenant requesting or needing assistance in complying with the PHA's housekeeping standards.

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. PHA will comply with lease stipulations.

Hoarding/Clutter Unit:

If the authority deems a concern about the amount of clutter in a tenant's unit, particularly, if the clutter is a fire hazard, tripping hazard, or if it harbors mice, roaches, bed bugs, spiders, etc., or the tenant fails to reduce clutter to prevent bug infestation that can cause health problems and risks, or fire, or any other unsafety issues to themselves, family members, visitors, and other tenants, the authority shall require the tenant to clean, organize, and get rid of the clutter. Failure to comply with such a request shall constitute a lease violation and termination of tenancy.

Smoke Detector:

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.

Preventive Maintenance Inspections (PMI)

PHA Policy

Tenants are notified in writing, at least two (2) days in advance as to the date and time of the inspection. The PMI program allows the PHA to inspect an occupied unit and complete minor repairs noted during the inspection as well as completing existing work orders assigned to the unit. PMI inspections also encompass common area items such as roof, building systems, gutters, and grounds.

Real Estate Assessment Center Inspections (REAC)

PHA Policy

Tenants are notified in writing, at least two (2) days in advance as to the date and time of the inspection. REAC's function is to ensure that Public Housing properties are decent, safe, sanitary and in good repair. Applying HUD's uniform, consistent standards, REAC personnel inspection emphasizes health and safety deficiencies because health and safety deficiencies are crucial to the well-being of the tenants.

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.

PHA Policy

Supervisory quality control inspections will be conducted in accordance with the PHA's maintenance plan.

Special Inspections

PHA Policy

PHA staff may conduct a special inspection for any of the following reasons:

- Unit condition
- Suspected lease violation
- There is reasonable cause to believe an emergency exists.

Other Inspections

PHA Policy

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

Move-Out Inspections [24 CFR 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes unless the tenant vacates without

notice to the PHA. The PHA must provide the tenant with a statement of any charges to be made for maintenance and damage beyond normal wear and tears.

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.

PHA Policy

The PHA will inspect the unit at the time the tenant vacates the unit. At the tenant's request, the PHA will inspect the tenant. If present, the household or co-head must sign the move-out inspection form.

The PHA will provide the tenant with a written statement of the maintenance and damage charges, if any, for which the tenant is responsible.

The PHA will provide the tenant with a statement of charges within 30 calendar days of conducting the move-out inspection.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Non-emergency Entries [24 CFR 966.4(j)(1)]

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two (2) days before such an entry is considered a reasonable advance notification.

PHA Policy

PHA shall have the right to enter the dwelling unit at all reasonable times to make routine inspections and maintenance, to make improvements or repairs, for pest control purposes, or to determine if tenant continues to occupy the unit when reasonable doubt exists, provided prior notice is sent to tenant and tenant has not requested that the PHA reschedule the date of entry.

Whenever possible, the PHA shall give at least two (2) days' written notice to tenants stating the date of proposed entry.

Entry for repairs requested by the tenant will presume permission for PHA to enter the unit.

If no adult household member is present at the time of entry, PHA shall leave a written statement giving the date, time, and purpose of such an entry.

Emergency Entries [24 CFR 966.4(j)(2)]

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at

the time of an emergency entry, the PHA must leave a written statement showing the date, time, and purpose of the entry prior to leaving the dwelling unit.

Scheduling Inspections/Unit Repairs

PHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the PHA at least 24 hours prior to the scheduled inspection.

The PHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The PHA may request verification of such cause.

Other than for tenant-requested and emergency repairs, if upon third (3rd) attempt to enter the unit no adult household member is present, PHA will enter the unit to complete the repair or inspection.

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.

PHA Policy

Except at move-in inspections, the tenants will not be required to be present for the inspection. The tenant 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 notice that the inspector was there. Copies of inspection reports are available to tenants upon request.

8-II.D. INSPECTION RESULTS

The PHA 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)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame.

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

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodation. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and

loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

PHA Policy

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

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

- Any condition that jeopardizes the security of the unit
- Major 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 are not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

Non-emergency Repairs

PHA Policy

The PHA will correct non-life-threatening health and safety defects within 30 calendar days of the inspection date.

If the PHA is unable to make repairs within that period due to circumstances beyond the PHA's control (e.g. required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

Tenant-Caused Damages

PHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges. Repeated or excessive damage to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Tenant Responsibilities

PHA Policy

Tenant responsibility includes:

Notify the PHA's maintenance department immediately of the need for repairs to the premises and of any unsafe conditions on the premises or grounds; and

Use electrical, plumbing, heating/ventilation, air conditioning, and other facilities in a reasonable manner.

PART III: GUESTS

8-III.A. GUESTS/GUEST STAY

Regulations: 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 expressed or implied authority to so consent on behalf of the tenant.

The lease must provide 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 PHA premises [24 CFR 966.4(f)].

PHA Policy

A resident family must notify the PHA in writing (BHA Guest Form) and complete a Criminal Background/Sex Offender Questionnaire when overnight guests will be staying in the unit for more than three (3) calendar days.

A guest can remain in the unit no longer than 14 consecutive calendar days or a total of 30 cumulative calendar days during any 12 months, with advanced consent in writing to the BHA.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 30 consecutive calendar days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to joint custody arrangements or for whom a family has visitation privileges, who 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 banned, evicted, or owe BHA a balance is not permitted as overnight guests.

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

(a) PHA's permission is not required for overnight stay. However, when required, a tenant must provide the name and address of their overnight guest for the following reasons: When complaints are received that a tenant's guest

has threaten the health, safety, and peace of the premises, or participated in criminal activity or drug related criminal activity on or near the premises, assaulted other residents or the PHA's employees, or subcontractors, participated in actual/or threatened gender-based violence or stalking, violated the PHA's no smoking policy, affected the health, safety, or right to peaceful enjoyment of the premises by other tenants. For these reasons, the tenants are responsible for having knowledge of their overnight guest's name and address.

- (b) For the health and safety of the PHA's tenants, employees, subcontractors, tenants are not permitted to allow any stranger to stay overnight.
- (c) The PHA reserves the right to ban guests who threaten health, safety, or the right to peaceful enjoyment by other residents. In such cases, tenants will be notified when a guest has been banned. Then, they can make a complaint about the PHA's decision to ban guests by using the Grievance Procedure.
- (d) If a tenant breaks the rules in the lease, the PHA shall terminate the tenancy and start an eviction. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

PART IV:
SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of the Board approval date.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures.

Smoking is also prohibited in outdoor areas within 25 feet of public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule. The term “smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

PHA’s NO-SMOKING HOUSING POLICY

The PHA has established the following No-Smoking Housing Policy that is distributed to all tenants, along with a certification of receipt.

Purpose

The purpose of this standard operating procedure is to establish guidelines for promoting and enforcing the non-smoking policy for public housing communities. The policy is designed to eliminate the health and environmental risks in public housing that are associated with smoking.

Introduction

On February 3, 2017, the US Department of Housing and Urban Development (HUD) published the Final Rule concerning *Non-Smoking Policies in Public Housing*. Within 18 months of this date, all public housing authorities are to adopt non-smoking policies in all their public housing communities, since Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families.

Background

- According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. In 2006, the U.S. Department of Health and Human Services published *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. The report defines secondhand smoke; in the past referred to as environmental tobacco smoke (ETS), as smoke composed of side-stream smoke (the smoke released from the burning end of a cigarette) and exhaled mainstream smoke (the smoke exhaled by the smoker).

The report issued major conclusions based on scientific data, including the following:

- The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.
 - Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, the Bethlehem Housing Authority has determined that for the benefit and well-being of the residents, guests, employees and all who visit our Public Housing Units smoking will only be permitted in the following specified areas outside of the properties **effective June 1, 2017.**

Authorized Smoking Locations:

Monocacy Tower, 645 Main Street:

Johnson Park and any other area 25 feet away from the building

Litzenberger House, 225 E. 4th Street:

Any area 25 feet away from the building

Bartholomew House, 512 Elm Street:

Rear picnic patio and any other area 25 feet away from the building

Bodder House, 645 Leibert Street:

Any area 25 feet away from the building

All Family Developments including Pembroke, Marvine, Fairmount, Pfeifle, Bayard, Lynfield and Parkridge:

Any area 25 feet away from any of the buildings

Smoking shall not be permitted:

- By any person including current residents, new residents, tenants, their roommates, their guests, their agents nor their employees inside any building.
- In any individual apartment units or balconies or patios, which are a part of any Authority Building.
- In common areas within any building such as entryways, hallways, stairways, restrooms, laundry rooms and all openings to any housing property, including window and door openings or within 25 feet of those window or door openings and within twenty-five feet from any exterior walls.
- In all playground / recreational areas.

Smoking shall be permitted only:

Twenty-five (25) feet away from all entryways, exterior building walls, and all openings top any housing property including window and door openings.

Definitions

The term “smoking” means inhaling, exhaling, breathing, burning, carrying, or possessing any lighted cigar, cigarette, pipe, other tobacco products, or similarly lighted smoking material in any manner or in any form including all electronic cigarette products, commonly referred to as “e-cigarettes”.

The terms “leaseholder”, "resident" and "tenant" shall refer to all person(s) who have signed a lease agreement leasing a housing unit from the Bethlehem Housing Authority.

Rules and Regulations

All leaseholders, residents and tenants of housing units, and their guests, agents, employees, and invitees must abide by the following rules and regulations:

1. **Prohibition of Smoking Inside Buildings.** Smoking shall not be permitted anywhere inside any Bethlehem Housing Authority Building including, but not limited to, individual apartment or housing units, balconies and patios attached or a part of those housing units and including all common areas such as entryways, hallways, restrooms, laundry rooms, and all openings to the building including window and door openings.
2. **Prohibition of Smoking in Most Areas Outside Buildings.** Smoking shall also be prohibited in recreational playground areas, and within 25 feet of any openings to any building on those properties (e.g., windows and doors, exterior walls).
3. **Phase In of Policy**

Effective on June 1, 2017, all leaseholders of the Authority's Public Housing Units, including guests, invitees, agents, and employees, are prohibited from smoking anywhere in or outside the buildings or units, except for twenty-five (25) feet from all openings to the building including windows, doors and exterior walls.

FIRST VIOLATION: Upon the first violation, the enforcement procedure will consist of a verbal and written cease-and-desist request made to the leaseholder/resident deemed responsible for that violation.

SECOND VIOLATION: Upon second violation, enforcement will consist of a written cease-and-desist request made to the leaseholder/resident deemed responsible for the violation.

THIRD VIOLATION/LEASE TERMINATION: Upon the third violation, enforcement procedure will include formal notices of violation and notices of lease termination and eviction. That is, violation of the no-smoking policy by the leaseholder, and/or his or her guests will be treated as a material breach of the tenant's lease agreement and enforced in accordance with the notice and termination procedures that apply to the lease or rental agreement of the particular leaseholder, resident or tenant who have themselves violated or who are responsible for those who have violated the no-smoking policy.

4. **Proper Disposal of Cigarette Butts & Smoking Material.** Cigarette butts and all smoking material must be disposed of in a neat and safe manner. No person may throw cigarette butts or other smoking material on the ground.

5. **Compliance by Leaseholders/Resident's Guests.** Leaseholders, residents and tenants are responsible for ensuring that all their guests of the housing unit for which the leaseholder, resident or tenant is responsible are made aware of and comply with this policy.

Lease Violation. The leaseholders are responsible for the actions of all of his/her or their guests. Failure to comply with any of the rules or regulations contained in this policy may be considered a material lease violation as set forth at paragraph three (3) above and subject to all leasehold remedies including, but not limited to lease termination, eviction and damages which may include the cost to clean items discolored and/or which contain the odor of smoke including, but not limited to carpets, drapes, and walls, or the cost to repair burn marks and remove cigarette butts or residue.

6. **Complaints.** If leaseholder(s)/resident(s) witnesses someone smoking or smells tobacco smoke in any place within the interior of units, or witnesses someone smoking on the grounds, they should report the violation to the property manager **in writing** as soon as possible.

7. **Investigations.** Property managers receiving a complaint will seek the specific source of tobacco smoke and will take appropriate enforcement action, consistent with paragraph three (3) above, as soon as possible.

8. **Communication of Policy.** This policy shall be communicated by the property manager to all current residents (leaseholders) of the Bethlehem Housing Authority, to new residents prior to the signing of a lease.

a. New leaseholders shall be given two (2) copies of the policy at lease orientation. After reviewing, the leaseholders must sign one copy. The property management shall place the signed copy in the leaseholder's file.

b. Upon adoption of the policy, Head and Co-Head listed on the lease shall be given two copies of the policy by property management. After reviewing, the leaseholders must sign one copy. The property management shall place the signed copy in the leaseholder/resident/tenant file. In the event that any such person fails or refuses to sign his or her confirmation that he or she has read, understood and agrees to comply with the provisions of this BHA no-smoking policy, the Housing Authority will nevertheless be entitled to assume and understand that every such leaseholder read, understood and agreed to comply with this no-smoking policy.

9. **Effective Date.** The effective date of this policy was June 1, 2017, following the approval by the Bethlehem Housing Authority Board of Commissioners.

10. If any provision of this policy is invalid or unenforceable under applicable law, such provision shall be amended to comply with such law. The reformation of any provision of this policy shall not invalidate this policy or any lease agreement into which this policy is incorporated. An invalid provision that cannot be reformed shall be severed and the remaining portions of this policy shall be enforced.

11. **Electronic Nicotine Delivery Systems (ENDS):** Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

12. **Smoke-Free Complex:** Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household have been designated as a smoke-free living environment. Tenant and members of Tenant's household shall not smoke anywhere in the unit rented by Tenant, or within 25 feet of the building where the Tenant's dwelling is located, other designated non-smoking common areas or adjoining grounds of such building, nor shall tenant permit any guests or visitors under the control of tenant to do so.

13. BHA Not a Guarantor of Smoke-Free Environment: Tenant acknowledges that BHA's adoption of a smoking-free environment, and the efforts to designate the rental complex as smoke-free, do not make the BHA or any of its management agents the guarantor of Tenant's health or of the smoke-free condition of the Tenant's unit and the common areas. However, BHA shall take reasonable steps to enforce the smoke-free terms of its leases to make the complex smoke-free. BHA is not required to take steps in response to smoking unless, BHA knows of said smoking or has been given written notice of said smoking.

Lease Termination:

Effect of Breach and Right to Terminate Lease: A breach of the lease shall give each party all the rights contained herein, as well as the rights in the Lease. A material breach of the lease shall be a material breach of the lease and grounds for immediate termination of the Lease by the BHA.

Chapter 9

REEXAMINATIONS

INTRODUCTION

This chapter outlines HUD's requirements for reexamining income and family composition for families in the Public Housing Program. A family's choice of rent determines when the PHA is to reexamine the family's income and composition. The PHA may require families to report interim changes in family income or family circumstances as well. A family's failure to comply with the PHA's reexamination requirements is grounds for terminating assistance. The PHA must establish and adopt admission and occupancy policies concerning how annual and interim reexaminations will be conducted in accordance with such policies. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents is in this chapter, as well as in Chapter 6, 6-VIII.E that has more details.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexamination Process: This part contains the PHA policies for annual reexaminations, applying the cost-of-living adjustments COLA, annual reexaminations/choice of rent.

Part II: Managing the Annual Reexamination Process: This part contains policies for effective date of annual reexamination, establishing the reexamination cycle, reexamination interview options, effective communication, reasonable accommodations, and limited English proficiency, tracking the reexamination process, conducting the reexamination, mandated use of the Enterprise Income Verification (EIV), and HUD's form Debts Owed to Public Housing Agencies and Termination, form HUD-52675, and additional compliance with community service, criminal background/sex offender check, and changes in family size.

Part III: Interim Reexaminations: Part contains PHA's policies for interim reexamination.

Part IV: Changes in Family Composition / Remaining Family Members and Prior Debt: This part contains HUD's requirements and PHA's policies.

Part V: Zero Income Families: This part contains PHA's policies on zero income families.

Part VI: Over-Income Families: This part contains guidance and the PHA's policies for managing over-income families.

Part VII: Recalculating Tenant Rent: This part contains policies on changes in utility allowance, notification of rent change and effective date, and discrepancies.

Note: Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

Regulations

- 1 24 CFR § 960.257(b)
- 2 24 CFR § 960.257(d)
- 3 24 CFR § 960.257(a)
- 4 Form HUD-50058 Instruction Booklet (1-2)
- 5 24 CFR § 960.259(a)(2)
- 6 24 CFR § 960.257(a)(2); 24 CFR § 960.253(f)
- 7 24 CFR § 5.230(b); 24 CFR § 960.259(b)
- 8 24 CFR § 960.257(a)
- 9 24 CFR § 960.257(a)
- 10 24 CFR § 960.257(a); § 960.253(a) and (c)
- 11 24 CFR § 966.4(b)(1)(ii)
- 12 Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the EIV
- 13 Notice PIH 2017-12
- 14 24 CFR § 960.607
- 15 24 CFR § 960.257(b)(3)
- 16 24 CFR § 960.257(b)(3)(ii); Notice PIH 2023-27, Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies
- 17 24 CFR § 960.257(c)(3)(i)
- 18 24 CFR § 960.257(c)(5)
- 19 Notice PIH 2017-12
- 20 24 CFR § 960.253(a)(1)
- 21 24 CFR § 960.253(f)
- 22 24 CFR § 960.253(f)(2)(i)
- 23 24 CFR § 960.253(f)(2)(ii)
- 24 24 CFR § 960.253(f)(2) (iii)
- 25 24 CFR § 960.253(f)(1); 24 CFR § 960.257(a)(2)
- 26 24 CFR § 960.253(f)(3)(i)
- 27 24 CFR § 960.253(f)(3)(ii)
- 28 24 CFR § 960.253(b)(6)
- 29 24 CFR § 960.253(f)(3)(iii)
- 30 24 CFR § 960.257(b)(2)
- 31 24 CFR § 960.257(c)
- 32 24 CFR § 960.257(a)
- 33 24 CFR § 8.24(b)
- 34 Notice PIH 2023-27, Administrative Guidance for Effective and Mandated Use of the EIV
- 35 24 CFR § 966.4(a)(1)(v); Notice PIH 2023-27, Effective Use of the EIV System's Deceased Tenants Report to Reduce Subsidy Payment & Administrative Errors
- 36 Since family members under 18 are not required to sign Form HUD-52675, family members under 18 cannot be held responsible for rent arrearages.
- 37 24 CFR § 5.2009(b); Notice PIH 2017-08, VAWA Reauthorization Act of 2013 Guidance
- 38 24 CFR § 960.257(d)
- 39 Notice PIH 2023-03(HA), Final Implementation of Public Housing Over-Income Limit under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) 40 24 CFR § 960.503

**PART I:
ANNUAL REEXAMINATION PROCESS**

9-I.A. ANNAUL REEXAMINATIONS

The annual reexamination helps public housing administrators determine the continued eligibility of the family, the required unit size and the appropriate adjustments in the rent after consultation with the family and verification of the information.

As part of the annual reexamination, the PHA must:

- Complete the reexamination within a year (12 months) of the previous annual reexamination or new admission for families paying income-based rent.³ Reexamination completion status is based on the effective date of the submission of a HUD form 50058 with action type 2 in the Inventory Management System/PIH Information Center (IMS/PIC);⁴

- Require that the family supply any information requested to determine family income and composition.⁵ In the case of families choosing to pay a flat rent, PHAs must conduct a reexamination of family composition annually, and conduct reexamination of family income at least once every three (3) years;⁶ unless the family is determined to be an over-income family. According to regulations 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing Families who have been determined to exceed the over-income limit at specific intervals, even if a family is paying flat rent.

- Require an adult household member who turned 18 years of age to sign the Form HUD-9886-A (10-23), Authorization for the Release of Information/Privacy Act Notice and all other consent forms. Note: In accordance with the final rule on HUD Notice PIH 2023-27 issued September 29, 2023, participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA compliance date), they do not need to sign and submit subsequent consent forms at their next interim or regularly scheduled income reexamination except under the following circumstances: 1) when any person 18 or older becomes a member of the family. 2) When a member of the family turns 18 years of age. 3) As required by HUD or the PHA in administration instructions.

- Verify household income, assets, deductions, expenses, and family composition,⁸

- Calculate adjustments in rent, as appropriate,⁹

- Update household size, utility allowance (if applicable), and choice of rent as needed,¹⁰

- Provide tenants with written notice of an increase in tenant payment,¹¹ and

- For reexaminations, Level 4 verifications must be dated within the 120-day period preceding the reexamination or the date the PHA requested the documentation.¹²

When completing a reexamination, PHAs are encouraged to carefully consider the following components and updates:

Component	Updates at Annual Reexamination
Changes in income, assets, deductions, expenses, and household characteristics	<ul style="list-style-type: none"> • Obtain declaration of income, assets, deductions, expenses, and household characteristics. • Review documents for changes from the previous year. • Follow verification hierarchy to verify and calculate income, assets, deductions, expenses, and household characteristics.¹³
Changes in family composition	<ul style="list-style-type: none"> • Review and update the household size on the HUD-50058. • If household size changes, the family may be under-housed or over-housed in their current unit and may require a transfer to an appropriately sized unit.
Utility allowance	Verify that the utility allowance (if applicable) is correct based on lower of household size or unit size and using the PHA's current Utility Allowance Schedule. Refer to Chapter 6 Part VIII.H.
Rent Choice	Offer the family a choice between the flat rent amount and income-based rent amount at annual reexamination. Refer to Chapter 6 Part VIII.E.
Determination of Rent	Verify that the total tenant payment (TTP) is correct based on income-based rent or flat rent. Refer to Chapter 6 Part VIII.
Community Service / Self-Sufficiency Requirement	<ul style="list-style-type: none"> • Document adequately whether non-exempt tenants are complying with their community service or economic self-sufficiency responsibilities. • Determine any changes to the exempt or non-exempt status of family members.¹⁴

PHA Policy

For families paying income-based rent, the PHA will complete the annual reexamination within a year (12 months) of the previous annual reexamination or new admission.

For families paying flat rent, the PHA shall conduct a reexamination of family composition annually, and conduct reexamination of family income at least once every three (3) years, unless the family is determined to be an over-income family. According to regulations 24 CFR 960.507(c), the PHAs are required to conduct income examinations of Public Housing Families who have been determined to exceed the over-income limit at specific intervals, even if a family is paying flat rent.

The PHA will comply with all HUD requirements listed above. See Part II below - Managing the Annual Reexamination Process. Also refer to Chapter 6, Income and Rent Determination and Chapter 7, Verification

When calculating a household's income, including asset income, at the time of annual reexaminations, PHAs shall use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period).

Note: This requirement will change with HOTMA changes for conducting income annual reexamination.

Any change of income since the family's last annual reexamination, including those that did not meet the 10% threshold to process an interim reexamination of family income in accordance with the PHA's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), will be considered. PHA will also use income from assets that is always anticipated, irrespective of the income examination type. Refer to Chapter 6-V.D. for more detail.

9-I.B. APPLYING THE CURRENT SSA COLA AT NEXT ANNUAL AND INTERIM REEXAMINATION

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation.

The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov. Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA must determine annual SS income as follows:

- Current benefit amount: \$500
- COLA: \$18.00 (\$500 x 3.6 percent [or 0.036])
- New gross SS benefit effective 01/01/2024: \$518.00 (\$500 current benefit + \$18 COLA)
- Annual SS income effective 1/1/2024: \$6,216 (\$518 x 12)

PHA Policy

Effective the day after SSA has announced the COLA, PHA will factor in the COLA for all annual reexaminations and interims of family that have not yet been completed and will be effective January 1 or later of the upcoming year.

9-I.C. ANNUAL REEXAMINATIONS AND CHOICE OF RENT

Once a year, the PHA must give each family the opportunity to choose between flat rent or income-based rent, the two methods for determining tenant rent.²⁰ The PHA must offer each family the choice at the time of annual reexaminations.²¹

Annual reexamination requirements for income-based rent:

- Conduct a full reexamination of family income and composition at least annually,²²
- Inform the family of the flat rent amount and the income-based rental amount determined by the examination of family income and composition,²³ and
- Inform the family of the PHA policies on switching rent types in the event of financial hardship.²⁴

Annual reexamination requirements for flat rent: If a family chooses a flat rent, the PHA must:

- Conduct a reexamination of income at least once every 3 years, unless the family is considered an over-income family (Refer to Part V. of this chapter), and reexamination of family composition annually;²⁵
- Use income information from the first annual rent option in the intervening years when the PHA chooses not to conduct a full examination of family income;²⁶
- Inform the family of the updated flat rental amount and the income-based rental amount as determined during the most recent full re-examination, ²⁷.
- Compare the updated flat rent amount to the previous flat rent amount to determine if a phase-in is required,²⁸ and
- Inform the family of the PHA policies on switching rent types in the event of a financial hardship.²⁹

PHA Policy

For those families who choose to pay income-based rent, the PHA shall conduct a reexamination of income and family composition at least annually and comply with the above requirements. For families who choose flat rents, the PHA shall conduct a reexamination of family composition at least annually and shall conduct a reexamination of family income at least once every three (3) years [24 CFR 960.257(a)(2), unless the family is considered an over-income family. The PHA shall comply with the above requirements.

Note: Policies related to the reexamination process for families paying flat rent are also in Chapter 6-VIII.E, with more details.

For flat rent reexamination of family composition (“Annual Update”)

As noted above, full re-examinations are conducted every 3 years for families paying flat rent. 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 like 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 on family composition will be conducted annually. Full reexamination shall be conducted every three years.

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 this chapter.

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

If applicable, notification of the annual update on family composition 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 ten (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 the required documentation by mail, by email, 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 ten (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.

PART II: MANAGING THE ANNUAL REEXAMINATION PROCESS

9-II.A. OVERVIEW

Generally, PHAs have flexibility in how they manage their reexamination process to maintain a balanced workload. These flexibilities include setting effective dates for reexamination, conducting mail-in or in-person interviews and monitoring the overall process. Best Practices for Managing the Annual Reexamination Process/Tips:

- Know the reexamination schedule for the entire year and update the schedule regularly.
- Begin the re-examination process on time to avoid missed deadlines. Ideally, the timeframe for initiating reexaminations is 120 days prior to the family's anniversary date. This will give enough time to interview the family, verify information, process the calculations and set an effective date for the family's anniversary annually after providing the appropriate notice of any rent changes.
- Allocate adequate staff and other resources for the volume of reexaminations due.
- Prepare written procedures governing the reexamination process and enforce their use.
- Assigned clear staff responsibility for completing reexaminations and supervising work.
- Train staff members and hold them accountable for on-time completion.
- Review the seasonality of annual re-examinations and, if necessary, conduct some annual re-examinations early to avoid experiencing months with an inordinately high number of annual re-examinations due.
- Develop tracking system that documents every stage of the reexamination process. (These systems may be manual handwritten logs or automated spreadsheets or software programs).
- Develop a reporting system (manual or automated) that summarizes activities and outcomes on a monthly or more basis.
- Avoid delayed responses from third parties to prevent untimely verification of information. Use other permissible verification methods without delay.
- Perform regular quality control reviews of completed reexamination consistent with requirements.
- Implement employees' recognitions and reward programs to encourage timely and efficient performance; and

- Regularly evaluate success and consider changes to system, policies, procedures, and staff training programs that might improve the overall process.

9-II.B. EFFECTIVE DATE OF ANNUAL REEXAMINATION - Reexamination Cycle

PHA have discretion when determining when they will complete Annual Reexamination. However, HUD requires that the effective date of the reexamination for a family payment in-based rent occurs no more than 12 months after the previous annual reexamination or new admission effective date.³²

PHAs typically align a family's annual reexamination effective date with the anniversary of their admission in the program or their last interim reexamination. Neither of these methods are required but are considered the best practices for ease of scheduling and reporting.

Establishing the Reexamination Cycle: When a PHA chooses to establish reexamination cycles, based on the date of program admission, the family's annual reexamination will be due on the same date every year.

PHA Policy

The PHA will comply with all HUD's requirements. The PHA opted to schedule annual re-examinations to coincide with the family's anniversary date. If the family transfers to a new unit, the anniversary date will NOT change.

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).

The PHA opted to begin the annual reexamination process approximately **90 to 120 days** in advance of the scheduled effective date.

9-II.C. REEXAMINATION INTERVIEWS

HUD does not require that PHAs conduct in-person interviews as a part of the annual reexamination process. Some PHAs choose to complete some or all reexaminations via mail, while others request that some or all tenants appear in person, per the PHA's ACOP policy. However, all PHAs are required to conduct reexaminations in alternative formats to reasonably accommodate individuals with disabilities who may be unable to attend a face-to-face interview because of their disability.³³ Accommodation may include conducting a home visit to complete the reexamination process.

PHA Policy

Heads of households and Co-heads are required to participate in an annual reexamination interview and provide the required signed documentation and verifications needed according to their reported income, assets, and expenses.

The PHA shall conduct phone interviews for tenants who request phone interviews and in-person interviews for tenants who request in-person interviews.

The PHA will also accept completed annual certifications, for tenants who registered for the PHA's online portal to complete their annual certification.

If a tenant chooses a phone interview, tenants must report to the management office to sign all re-examination documents and provide requested documents needed to complete the re-examination process.

If participation in a phone interview or in-person interview poses a hardship because of a tenant's disability, the family is required to contact their management office to request reasonable accommodation (e.g. home visit, or via-mail, etc.)

The PHA will inform tenants of their options to have their annual recertification interviews and their right to request reasonable accommodation.

During Natural Disaster or Pandemic

In the case of natural disaster or pandemic, the PHA may conduct mail-in or phone interviews for all tenants according to the circumstances and HUD's guidance.

9-II.D. EFFECTIVE COMMUNICATION, REASONABLE ACCOMMODATION, AND LIMITED ENGLISH PROFICIENCY (LEP) REQUIREMENTS

All notifications and communications must ensure effective communication for individuals with disabilities. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. PHAs must provide reasonable accommodation for individuals with disabilities throughout the reexamination process and may not require individuals with disabilities to make either a new reasonable accommodation request or provide additional documentation during the reexamination process for existing accommodation that has already been granted. PHAs must also take reasonable steps to ensure meaningful access and activities to individuals with limited English proficiency. Refer to HUD's Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) (72 Fed. Reg. 2732 (January 22, 2007)). LEP guidance and LEP information is available on HUD's website.

PHA Policy

The PHA shall make every effort to provide notifications and communications to ensure effective communication for individuals with disabilities. Upon the tenants' request, the PHA shall provide appropriate auxiliary aids and services necessary to ensure effective communication, which may include ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. PHA shall provide reasonable accommodation for

individuals with disabilities throughout the reexamination process and will not require individuals with disabilities to make either a new reasonable accommodation request or provide additional documentation during the reexamination process for existing accommodation that has already been granted.

The PHA shall also take reasonable steps to ensure meaningful access and activities to individuals with limited English proficiency.

The PHA will inform tenants of their right to request reasonable accommodation. See Chapter 2

9-II.E. TRACKING THE REEXAMINATION PROCESS

It is important that the PHA has tracking and monitoring procedures and systems in place to ensure that the required re-examination for each assisted family is initial and completed on time.

Most PHAs have a system of recording with reporting features to help staff monitor and track the annual reexamination process. Housing software programs can identify reexamination due dates and monitor PHA monthly reexamination activity through computer-generated reports. Most software systems allow for reporting on various date-driven fields. The dates tracked for each family might include:

- Lease effective date.
- Reexamination effective date.
- Initial reexamination notification date.
- Second notice date.
- Termination notices date.
- Notice of rent adjustment date; and
- Next annual reexamination date.

PHA's computer software generally has the capability to provide audits reports identifying outstanding annual reexaminations. PHAs are strongly encouraged to review HUD's IMS/PIC system Reexamination Module to identify late annual reexaminations. Many PHAs also maintain internal electronic reexamination activities or progress logs. These logs are used to assist staff in managing the on-time completion of the re-examination process and are considered the best practice.

PHA Policy

The PHA has tracking and monitoring procedures and systems in place to ensure that the required reexamination for each assisted family is initial and completed on time.

The PHA has a software program to identify reexamination due dates and monitor monthly reexaminations through computer-generated reports. Each month a report is printed showing a list of all the upcoming annual reexaminations that are due for the staff to start the reexamination process **90 to 120** days before the effective date of the assisted families' annual reexaminations.

To ensure that the annual reexamination for each assisted family is initiated and completed on time, the PHA has established a reexamination checklist for the staff to track and monitor reexamination procedures. Each month the PHA's information system department generated a report to ensure that the reexamination for each assisted family was completed in a timely manner.

Initial Reexamination Notification

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be provided.

If the tenant is unable to attend a scheduled interview, the tenant is required to contact the PHA in advance of the interview to reschedule the interview appointment or **request their interview options.**

Second Notice Date

If the PHA does not hear from the tenants, the PHA will send a second notification with a new interview appointment time.

Termination Notice

If a tenant fails to attend two scheduled interviews without PHA approval, the tenant will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Notice of Rent Adjustment

Once the annual reexamination process is completed for each assisted family, the PHA will send the notice of rent adjustment by first-class mail.

Once the tenant receives their notice with their actual rent adjustment, they have 30 days from the receipt of their notice of rent adjustment to change their rent choice that they made upon the date of their reexamination interview due to an anticipated rent amount given.

9-II.F. CONDUCTING THE ANNUAL REEXAMINATION

The terms of the public housing lease require the family to furnish information regarding income, assets, and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

PHA Policy

The PHA requires that the Head, Spouse, and Co-Head of the household attend the reexamination interview to certify all information given by the tenants on their income, assets, expenses deductions, and family composition.

Tenant Required Documents

By the initial reexamination notification, tenants are asked to provide all current and required documents/information concerning their income, assets, and expenses. Any required documents or information that the tenant failed or was unable to provide at the time requested must be provided within ten (10) days calendar days of the interview.

If the family is unable to obtain the information or materials within the required time frame, the tenants may request an extension of five (5) days.

If the family does not provide the required documents or information within the required time frame (plus the extensions), the family will be considered in violation of their lease and may be terminated from their assisted program in accordance with the policies in Chapter 13.

If the PHA can assist the family in obtaining a third-party verification, the PHA will make its best effort (e.g. send a traditional signed release verification form to an employer, a bank, or the department of welfare, or pension entity, etc.). The PHA will follow the verification process contained in Chapter 7, Verification.

Deduction Documents

Tenants are responsible for providing the PHA with the required current documents listed below for their claimed expenses:

- **Unreimbursed Health and Medical Care Expenses:** If the tenants failed to provide current proof of their unreimbursed expenses for any elderly family or disabled family, the PHA will perform the annual reexamination without the deduction due.
- **Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses:** If the tenants failed to provide current proof of their unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, the PHA will perform the annual reexamination without the deduction due.
- **Unreimbursed Childcare Expenses:** If the tenants failed to provide current proof of their unreimbursed childcare expenses to enable a member of the family to be employed or further their education, the PHA will perform the annual reexamination without the deduction due.

- **Permissive Deduction of 50% Child Support:** If the tenant failed to provide current proof of permissive deduction for 50% child support deduction, the PHA will perform the annual reexamination without the deduction due. The payer must be employed and must have paystubs showing the support being garnished from earnings.

Required Signed Documents

The PHA requires the tenants to sign the following annual reexamination documents/forms every year:

- Public Housing Annual Recertification
- Applicant/Tenant Certification
- Family Choice Rental Payment Request
- Criminal Background/Sex Offender Questionnaire
- Zero Income Statement, if applicable
- Zero Income Questionnaire for In-Kind Income, if applicable.
- Fire Evacuation Assistance (Only for High-Rise tenants)

For family members who turned **18 years old**, the PHA requires that they sign the following documents/forms.

- BHA Release Waiver
- Section 3 Questionnaire
- HUD-52675 – Debt Owed...
- RHIP - What You Should Know About EIV
- HUD-9886-A – Authorization for the Release of Information/Privacy Act Notice

Note: These documents should have already been signed by other adult members during admission or during previous reexaminations. Staff is responsible for ensuring that these required signed documents are in the tenants' files.

Documents Not Needed for Reexaminations

The following types of documents/forms that are verified at admission typically do not need to be re-verified on an annual basis unless there is an addition to household at the time of the annual reexamination. These include:

- Legal identity
- Age
- Social security numbers
- Citizenship and Eligible Immigration Status
- HUD-9886-A – Authorization for the Release of Information/Privacy Act Notice

9-II.G. REEXAMINATION EFFECTIVE DATE

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

PHA Policy

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.

Rent Adjustment Decrease

In general, a rent adjustment decrease that may result from an annual reexamination will take effect on the tenant's anniversary date, unless an interim reexamination is due. See Part III: Interim Reexaminations, of this chapter.

Rent Adjustment Increase

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. This means that the PHA will process the annual reexamination for the effective date of the annual reexamination using the tenant's information from prior annual reexamination or interim examination. Then process an interim/reexamination for the first of the month following the end of the 30-day notice.

Delay in Processing Reexamination

In general, delays in reexamination processing are caused by the tenant if the tenant fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

Rent Increases:

If the tenant causes a delay in processing the annual reexamination, the rent adjustment increases will be applied retroactively to the scheduled effective date of the annual reexamination. The tenant will be responsible for any underpaid rent. **No thirty (30) days' notice is due.**

Rent Decreases:

If the family causes a delay in processing the annual reexamination, the rent adjustment decreases will be applied retroactively to the effective date of the annual reexamination, as opposed to the first day of the month following completion of the reexamination processing. This will avoid financial hardship on behalf of the tenant.

PHA Delay in Process:

If the PHA causes a delay in processing the annual reexamination due to staff turnover, or other circumstances that prevented the PHA from processing the annual reexamination in a timely manner, the tenant will not be penalized.

The rent adjustment increase will take effect on the first of the month following the end of the 30-day notice period. If a rent adjustment decreases and the tenant is overcharged, the PHA will reimburse the tenant.

9-II.H. MANDATED USE OF THE ENTERPRISE INCOME VERIFICATION (EIV)

The EIV System is a web-based application, which provides PHAs with employment, wages, unemployment compensation and social security benefit information for tenants who participate in the Public Housing and various Section 8 programs. PHAs must use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236, and other HUD administrative guidelines. PHAs are required to review the EIV Income and Income Validation Tool reports during mandatory reexamination of family income and /or composition.

Further, PHA must notify all adults program participants (including minors upon their 18th birthday) of Debts to Public Housing Agencies and Terminations, Form HUD-52675.

Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV) System Regulation: 24 CFR § 5.233

The regulation clarifies that PHA must use EIV to verify tenant employment and income information at annual reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHA Discretion: PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP. Any policy adopted by a PHA must be applied consistently to all households.

PHA Policy

EIV:

During annual reexamination, the PHA shall use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236, and other HUD administrative guidelines. The PHA shall review the EIV Income and Income Validation Tool reports during mandatory reexamination of family income and /or composition.

Form HUD-52675 – Debts to PHA and Terminations:

The PHA will notify all adults program participants (including minors upon their 18th birthday) of Debts to Public Housing Agencies and Terminations, Form HUD-52675. A signed copy of the form will be placed in the tenants' files.

9-II.I. COMPLIANCE WITH COMMUNITY SERVICE

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once every 12 months [24 CFR 960.257(a)(3)].

Refer to Chapter 11 for the PHA's policies governing compliance with the community service requirements. 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].

The PHA is required to obtain all the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA.

PHA Policy

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA shall conduct an annual review of community service requirement compliance with nonexempt individuals and monitor the HUD-50058 community service code according to policies on Chapter 11.

The PHA has established a Community Service Department to monitor and ensure compliance with community service regulations, as well as the Family Self-Sufficiency Program.

9-II.J. CRIMINAL BACKGROUND/SEX OFFENDER CHECK

HUD requires PHAs to review criminal background and sex offender registration information for all adult's household members applying for assisted housing or for continued occupancy in assisted housing. The information that is collected will be used to determine eligibility for occupancy or for continued occupancy. Information obtained through criminal background checks may 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.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

PHA Policy

The PHA will review criminal backgrounds and sex offender registration information for all adult's household member before admission for assisted housing. Then at the time of the tenants' annual reexaminations, the PHA will only check the Sex Offender database to review any changes that would affect the tenants' continued occupancy.

At the annual reexamination, the PHA will requires each household member aged 18 and over to execute a consent form for a criminal background/sex offender check as part of the annual reexamination process. The PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA will notify the household of the proposed action and will provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. (Refer to Chapter 13.)

9-II.K. CHANGE IN HOUSEHOLD SIZE

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual updates to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are in Chapter 12.

PHA Policy

At the time of annual reexamination, the PHA will monitor any changes in unit size and family composition to ensure any transfer due to the appropriate unit size. If a transfer is due, the PHA will initiate a transfer application process according to the PHA policy in Chapter 12.

PART III INTERIM REEXAMINATIONS

9.III.A. OVERVIEW

According to HUD Development guidebook dated 2022, interim reexaminations are conducted because of changes in family income, family compositions, or circumstances impacting adjusted annual income that occur between reexaminations. The purpose of an interim reexamination is to determine the continued eligibility of the family and adjust the rent, if necessary.

It is considered the **best practice** to require families to report any changes in income and/or family composition within 10 business days of the change. After receiving the information, the PHA will set a reasonable timeframe in which to approve family and household additions, conduct the interim reexamination, make rent adjustments, and then send a 30-day rent change notice.

Note: Under the HOTMA final rule, interim reexaminations will generally only be conducted if a family's adjusted annual income has changed by 10 percent or more, unless the PHA has adopted a policy to conduct interim reexaminations for decreases less than 10 percent. HUD will keep the PHAs posted on these changes.

Mandatory Policies: PHAs are required to establish a policy about interims that includes when and under what conditions tenants must report a change in family income and/or composition (24 CFR § 960.257(b)(2))

Discretionary Policy Considerations:

- For zero income households, PHAs have discretion pertaining to the frequency and method in which they verify a household's income when it is reported that there is no income. PHAs may consider a combination of self-certification forms, in-person updates, a form with a series of questions about expenses, or regular interim reexaminations.
- PHAs have discretion about when and how new family members are added to the lease, if the individuals meet eligibility criteria.
- PHAs have the discretion to determine when and under what conditions the PHA will require an interim reexamination. However, the interim reexamination policies must be detailed in the ACOP and in the annual PHA Plan as necessary (24 CFR § 960.257(b)(2))
- A family may request, and the PHA must process within a reasonable time of the request, an interim reexamination of family income or composition at any time due to changes since the last

reexamination (24 CFR § 960.257(b) (1) and (2)). “A reasonable time” may vary based on the amount of time it takes to verify information but generally should not be longer than 30 days after changes in income are reported.

- PHAs should develop policies to determine how tenants report changes and what documentation is required to process the income and/or family composition change.
- PHAs may set a threshold above which families are required to report changes in family income. For example, they may require families paying income-based rent to report any changes that occur between annual reexaminations in total tenant income that exceeds \$200 per month or \$2,400 per year

9-III.B. POLICIES FOR FAMILIES TO REPORT CHANGES TO THE ANNUAL ADJUSTED INCOME OR HOUSEHOLD COMPOSITION

PHA Policy

Following HUD’s recommendation for best practice, the PHA requires tenants on income-based rent to report all changes in family circumstances concerning family composition, income, and assets, that may affect rent and unit size that occur between annual reexaminations within 10 business days of the change. The PHA will process interim reexaminations for changes that occur between annual reexaminations in total tenant income that exceeds \$200 per month or \$2,400 per year.

Once all documentation is received from the tenant validating the reason for an interim reexamination, the PHA will determine if an interim is due and will complete the process within 30 days.

At the completion of an Interim Reexamination, if a rent increase is required, the PHA will send the tenant a written notice 30 days before rent changes take effect. If a change in unit size is required, the PHA will process an in-house transfer application and transfer the tenant to an appropriately sized unit upon availability according to the PHA transfer list and policy. See Chapter 12 for policy on Transfers.

Departure of Family or Household Members

If a family member ceases to reside in the unit, the family must inform the PHA within 10 business days. This requirement also applies to family members who have been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the PHA within 10 business days.

Death or Permanent Departure of Head of Household

If the head of household dies or permanently leaves the unit for any reason, any remaining family members may continue to occupy the unit if there is at least one family member (not a live-in-aide or a foster child or adult) of legal age who is a citizen or eligible non-citizen and has capacity to execute the lease. The family must inform the PHA of these changes within 10 business days. See Part IV of this Chapter.

Remaining Minor Family Members After Death or Permanent Departure of Head of Household

If the head of household dies or permanently leaves the unit, the PHA may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established for the remaining minor family members.

The PHA will first consider whether there are any remaining family members capable of executing the lease before permitting an individual not currently on the lease to assume the role of head of household and execute the lease.

After court-appointed guardianship is established, the PHA may add the guardian as the new head of household, provided they meet the PHA's eligibility criteria. This would usually occur when the only remaining family members in the unit are minors, who otherwise would have to leave the unit.

The new head of household will be held responsible for rental arrearages, unless the arrearage occurred before the new head of household turned age 18. See Chapter IV of this chapter.

CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

All tenants, whether they pay income-based or flat rent, must report all changes in family and household composition that occur between scheduled reexaminations.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or provide sufficient documentation to make a determination, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

If the family would like to dispute the denial, the household can follow the agency's Grievance Procedure.

The PHA will make its determination within 10 business days of receiving all the information required to verify the individual's eligibility.

CHANGES IN INCOME OR EXPENSES FOR INCOME-BASED RENT HOUSEHOLDS

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses under this section.

The PHA will conduct interim re-examinations in each of the following instances:

- Any changes of income that occur between annual reexamination in total tenant income that exceeds \$200 per month or \$2,400 per year.
- The PHA will determine if households are over-income as part of the interim and required annual reexamination processes. Once a family exceeds the over-income limit, the information will be documented in the tenant file.

If the initial over-income determination was made during an interim reexamination, the PHA will conduct a second interim income reexamination on that date one (1) year later.

If the family's income continues to exceed the over-income limit one year after the initial determination, the PHA will provide written notification informing the family that their income has exceeded the over-income limit for one (1) year. See Part VI of this chapter

- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination.
- For zero income households: When a family reports that there is no income. PHA will consider a combination of self-certification form and a form with a series of questions about expenses to determine in-kind Income to be included in family income. See Part V of this chapter.
- The PHA may conduct an interim re-examination at any time to correct an error in a previous reexamination or during a fraud/misrepresentation of income.
- Rent formulas or procedures are changed by Federal law or regulations.
- Tenants may report any increase in their childcare expenses or permissive deductions of child support to another BHA household within ten (10) business days. The PHA will conduct an interim if rent decrease is \$10 or more. Tenants do not have to report any decreases in childcare expenses. It will be picked up at their next annual reexamination.
- For Elderly and Disabled Head of Household or Co-Head, tenant may report any increases in their Health and Medical Care Expenses within ten (10) business days. The PHA will conduct an interim if rent decrease is \$10 or more. Tenants do not have to report any decreases in health and medical care expenses. It will be picked up at their next annual reexamination.

Documenting Tenant's Files:

PHA requires all changes to be made in writing on a BHA format form to be signed by the tenants and the staff receiving the changes reported to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements.

Documentation shall accompany request form and the HUD 50058 form if applicable.

If applicable, the PHA will document in the tenant's file all the family's reported changes and document the reason for not conducting an interim at the time.

9-III.C. CHANGE IN FAMILY SIZE DURING AN INTERIM

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual updates to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are in Chapter 12.

PHA Policy

At the time of an interim, the PHA will monitor any changes in unit size and family composition to ensure any transfer due to the appropriate unit size. If a transfer is due, the PHA will initiate a transfer application process according to the PHA policy in Chapter 12.

9-III.D. CALCULATING INCOME FOR NEW ADMISSION AND INTERIM REEXAMINATIONS

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

When calculating a household's income, including asset income, at the time of **admission** to the program **or during interim reexaminations, PHAs must use anticipated income** (current income) (i.e., the family's estimated income for the upcoming 12-month period).

This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

PHA Policy

The PHA will comply with all HUD requirements listed above. Also refer to Chapter 6, Income and Rent Determination and Chapter 7, Verification. When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, the PHA shall use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement will change with HOTMA changes for conducting income annual reexamination.

9-III.E. USE OF HUD'S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

Regulation: 24 CFR § 5.233

The regulation clarifies that PHA must use EIV to verify tenant employment and income information at annual reexaminations of family composition and income.

However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHA Discretion: PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP. Any policy adopted by a PHA must be applied consistently to all households.

PHA Policy

PHA opted not to use EIV to verify tenant employment and income information at interim reexaminations, unless it is necessary to verify any income discrepancies during reviews, suspected misrepresentation of income, or hired dates.

9-III.F. PROCCEING TIME PERIOD FOR INTERIM REEXAMINATION

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

The updated regulations codified long-standing guidance on how long PHAs should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. When the PHA conducts an interim examination, it must be conducted within a reasonable period after the family's request or after the PHA becomes aware of an increase in the family's adjusted income. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination **no longer than 30 days** after the PHA becomes aware of changes in income.

PHA Discretion: None.

PHA Policy

The PHA will generally conduct the interim reexamination no longer than 30 days after the PHA becomes aware of changes in income.

9-III.G. EFFECTIVE DATE OF INTERIM RENT CHANGES

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

• **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA policies, then the PHA must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

• **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHAs' policies, PHAs must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination.

The PHA may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination.

PHAs may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA management operations).

PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement that a PHA implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist

if a PHA failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example, scenario D, below.

PHA Policy

All notices will state the effective date of the rental adjustment. Tenants will be notified in writing of any rent adjustment due to the situations described below:

Changes Reported Timely:

Rent Decreases:

Rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease may be applied retroactively.

Rent Increases:

The PHA will provide the tenants with thirty (30) days' advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. For example: If a rent increase is due, because the tenant started receiving an increase income effective June 5th, and reported it on June 7th, and staff processed the interim on June 25th, effective date of interim would be August 1st. If the staff had a delay in processing the interim on time due to workload, and processed the interim on July 5, the effective date of the interim shall be September 1st. However, if the tenant delayed in providing the required verification requested, then the interim should be effective August 1st with no 30 days' notice.

Note: Any rent increases due to a change in Federal law or regulation, the increase will become effective on the first day of the second month following the month in which the PHA notifies the tenants of the law or regulatory change.

Changes Not Reported Timely/or Misrepresentation of Income:

Rent Decreases:

Rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income as opposed to the first of the month following completion of the reexamination. This means the decrease may be applied retroactively. This policy will reduce the potential hardship on tenants and eliminate or significantly reduce the amount of rent tenants may owe the PHA for back rent. BHA will not reimburse the tenants for any overpayments when the overpayments are clearly caused by the tenants.

Rent Increases:

The PHA will implement rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. No 30 days' notice is required.

9-III.H. CHANGE IN HOUSEHOLD SIZE

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual updates to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are in Chapter 12.

PHA Policy

At the time of an interim reexamination, the PHA will monitor any changes in unit size and family composition to ensure any transfer due to the appropriate unit size. If a transfer is due, the PHA will initiate a transfer application process according to the PHA policy in Chapter 12.

9-III.A. INTERIM REEXAMINATIONS (HOTMA)

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); 891.610(g); and 891.750

Summary: family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed¹²

PHA Policy

Tenants must report to the PHA all changes in income, assets, deductions, and **family composition** within 10 calendar days of the occurrence. Failure to report within 10 calendar days may result in a retroactive rent charge. [966.4 (c)(2)]

PHA will process a decrease in adjusted income greater than 0 percent due to decrease in family size. However, if a new member is added with income that results in 10 percent or more of the adjusted income, the PHA will process an interim increase. If it is less than 10 percent, the income will be counted for the next annual reexamination, unless the families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

Reporting of Unearned Income:

(i.g. SS, SSI, SSP, Pension, Welfare Income, Alimony, Child Support, Unemployment Benefits, In-kind Income, etc.) If unearned income results in an increase of 10 percent or more in annual adjusted income, the PHA will conduct an interim increase. If the changes

result in less than 10 percent in annual adjusted income, the PHA will not count the unearned income until the next annual reexamination.

Reporting of Earned Income:

Tenants are not required to report earned income increases until their next annual reexamination review, unless the tenants previously underwent an interim reexamination for decreases in income (both earned and unearned income). Then the PHA will conduct an interim reexamination.

Reporting Expenses Deductions

The PHA will conduct an interim examination if expenses deductions result in a decrease or increase of 10 percent or more in annual adjusted income.

For any request for childcare expenses hardship exemption, or general relief financial hardship refer to Chapter 6 Part V.

Documenting Tenant's Files:

The PHA will track all reported changes to a family's annual adjusted income to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements. The PHA will document in the tenant's file all the family's reported changes and document the reason for conducting or not conducting an interim at the time. To ensure that the tenants' files are documented, the PHA requires all changes to be made in writing in a BHA format form to be signed by the tenants and the staff receiving the changes reported.

Conducting Timely Interim Reexaminations:

The PHA shall conduct interim reexaminations within a reasonable period after the tenants' request or when the PHA becomes aware of the change in the tenants' adjusted income. PHA will generally conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income. PHA shall maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in interim reexamination due to the 10 percent threshold. When the PHA determines that an interim reexamination of income is necessary, the PHA shall ask the tenant to report changes in all aspects of adjusted income.

9-III.B. Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination of family income if the PHA estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income.

PHAs have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that a family's annual adjusted income has changed by an amount that the PHA estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances.

Specifically, HUD is requiring PHAs to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount.

If there is no change/decrease in adjusted income because of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income.

If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example

Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of \$9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling \$960, resulting in a 10 percent decrease in the family's adjusted income. The \$960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from \$0 to \$12,000 annually. Before the change, their annual adjusted income was \$40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of \$9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of \$480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted unit (as opposed to a decrease a family size). The PHA is not required to conduct an interim reexamination. However, the PHA has adopted a policy that has decreased the threshold from a 10-percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was \$20,000, but that number decreased to \$18,000 when the family member moved out. Since HUD requires PHAs to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives \$20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by \$15,000 per year. The PHA will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA Discretion: PHAs may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHA must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income. PHAs **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

PHA Policy

The PHA opted to establish a percentage threshold of 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income.

PHA opted to establish round calculated percentage decreases down to the nearest unit (e.g., a calculated decrease under 10% shall be rounded down to 9 percent -e.g. 9.7 will be rounded down to 9 percent). Note: The PHA will document in the tenant file all the family's reported changes and will document the reason for not conducting an interim at

the time. This documentation will be attached to the tenants' request for income or family composition change.

As required, the PHA shall apply a **0-percent threshold** to process an interim reexamination **when there is a decrease in family size** attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income because of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination.

This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a decrease in adjusted income.

If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA will process the removal of the household member(s) as a non-interim reexamination transaction **without making changes to the family's annual adjusted income.**

9-III.C. Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, **unless the family has previously received an interim reduction** during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA's policies.

PHAs **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income.

When the family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, a PHA has the discretion to consider or ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination.

PHAs must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income.

If a PHA has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA must conduct an interim reexamination in accordance with local policies. Conversely, PHAs that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination.

When an increase of any size is reported by a family, it is recommended best practice for the PHA to note the reported increase in the tenant file.

Example

Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has child-care expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination. Note: BHA's does have a policy to process an interim with changes reported within three months of the next annual reexamination.

Scenario B: The Allen family had an annual adjusted income of \$29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a \$480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA, which noted the change in the family's file. The PHA is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of \$275 monthly, or \$3,300 annually.

The PHA determined that the Allen family's new annual adjusted income is \$31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of \$2,820, or only 9.7 percent. Since this increase is below the 10-percent threshold, the PHA will not conduct an interim

reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from \$25,000 to \$13,000. The PHA conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to \$18,000. The PHA has a policy of considering increases in earned income when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of \$35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by \$2,650. She also recently started receiving monthly child support payments of \$150, or \$1,800 annually. She reported no other changes to the PHA.
- While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim.

Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from \$150 to \$325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of \$3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA will continue to disregard the increased **earned** income reported by the family until Mosberg's next annual reexamination.

PHA Discretion: PHAs have discretion on the following policies:

Whether the PHA will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased when the family previously received an interim reduction during the same reexamination cycle and whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA Discretion: None.

PHA Policy

PHA shall conduct an interim reexamination of tenants' income when the PHA becomes aware that the tenants' adjusted income has changed by an amount that resulted in an increase of 10 percent or more in annual adjusted income.

The PHA will not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, **unless the family has previously received an interim reduction** during the same reexamination cycle. **Note:** The PHA will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

When a **combined** increase of earned income and unearned income is reported, the PHA will look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. For example, combined income can total 12.3 percent, the earned income at about 7 percent of the increase, and the unearned income at about 5 percent. Refer to Example: Scenario D. above.

Tenants who delay reporting income increases that would have resulted in 10 percent or more shall be subject to retroactive rent increases in accordance with the PHA's policies. PHA **will not** process interim reexaminations for income increases that results in less than a 10-percent increase in annual adjusted income.

Documenting Tenants' Files:

The PHA will document in the tenant file all the family's reported changes and will document the reason for conducting or not conducting an interim at the time. When an increase of any size is reported by a family, the PHA shall note the reported increase in the tenant file through an income change form signed by the tenant.

9-III.D. Interim Reexamination to Determine Public Housing Over-Income Status

Regulation: CFR 24 960.507

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit. When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This

continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253). The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023-03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

PHA Discretion: None.

PHA Policy

Refer to Part VI of this chapter that contains over-income policies.

9-III.E. Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD.

In these cases, PHAs will submit a separate, new action code on form HUD-50058. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD-50058.

The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;

- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHA Policy

For any family who experiences changes within the household that do not trigger an interim reexamination under HOTMA, the PHA will submit a separate, new action code on form HUD-50058 revision.

9-III.F. Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)-(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

Summary: PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens. PHAs must develop policies that describe when and under what conditions families must report changes in annual adjusted income consistent with the new requirements for processing interim reexaminations.

PHAs are responsible for educating families on the requirements for reporting changes.

Families are responsible for reporting these changes to the PHAs.

It is the PHA's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements. A PHA's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA must determine if an interim reexamination is necessary.

Alternatively, PHAs may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination.

PHA Discretion:

PHAs have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA and the timeline for reporting the change.

For example, PHAs may develop policies stipulating that families are not required to report any income increases that become effective within the last three months of the family's certification period, or PHAs may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

PHA Policy

The PHA requires head or co-head of the household to report in writing on a PHA format form all changes to household composition, income, and deductions within 10 days of the change and the PHA shall determine if an interim reexamination is necessary in accordance with its 10 percent threshold. This will avoid any misunderstanding on behalf of the tenants and staff, and most of all any retroactive back rent that may create a financial hardship for the tenants.

Failure to report within 10 calendar days may result in a retroactive rent charge. [966.4 (c)(2)]

PHA will track all reported changes to a family's annual adjusted income to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements.

9-III.G. Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

Summary: The updated regulations codified long-standing guidance on how long it should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA becomes aware of an increase in the family's adjusted income. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than **30 days** after the PHA becomes aware of changes in income.

PHA Discretion: None.

PHA Policy

The PHA shall conduct interim reexaminations within a reasonable period after the tenants' request or when the PHA becomes aware of the change in the tenants' adjusted income. PHA will generally conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

9-III.H. Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

Summary: The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

• **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA's policies, then the PHA must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

• **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHA's policies, PHAs must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination.

PHAs may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA management operations). PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination. An exception to the requirement that a PHA implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination if a PHA failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example below, scenario D.

Example

Effective Date of Interim Rent Change

Scenario A: Reported Timely Income Decrease

The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA in accordance with the PHA policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA processes the interim reexamination.

Scenario B: Reported Timely Unearned Income Increase/But Staff Delay in Processing:

The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA in accordance with local policies on 6/20/2024. **But** the PHA did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: Rent Increase for Not Reporting Income in a Timely Manner:

The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA until 9/15/2024. The PHA has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA of the increase in income in accordance with the PHA's policy, the increased income is effectively retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: Rent Decrease for Not Reporting Income Timely

The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the household family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the PHA has a written policy allowing for retroactive rent decreases even when the family does not report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA Discretion:

PHAs must establish policies describing when and under what conditions a family is required to report changes in family income or composition to meet the "timely manner" requirement. PHAs must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be

applied prior to the latter of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination.

PHAs may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting).

In all cases of retroactive application, the PHA must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent.

Changes Reported Timely:

Rent Decreases:

Rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease may be applied retroactively.

Rent Increases:

The PHA will provide the tenants with thirty (30) days' advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. For example: If a rent increase is due, because the tenant started receiving an increase income effective June 5th, and reported it on June 7th, and staff processed the interim on June 25th, effective date of interim would be August 1st. If the staff had a delay in processing the interim on time due to workload, and processed the interim on July 5, the effective date of the interim shall be September 1st. However, if the tenant delayed in providing the required verification requested, then the interim should be effective August 1st with no 30 days' notice.

Note: Any rent increases due to a change in Federal law or regulation, the increase will become effective on the first day of the second month following the month in which the PHA notifies the tenants of the law or regulatory change.

Changes Not Reported Timely/or Misrepresentation of Income:

Rent Decreases:

Rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income as opposed to the first of the month following completion of the reexamination. This means the decrease may be applied retroactively. This policy will reduce the potential hardship on tenants and eliminate or significantly reduce the amount of rent tenants may owe the PHA for back rent.

Rent Increases:

The PHAs will implement rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. No 30 days' notice is required.

9-III.I. Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

Summary: PHAs who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted:

(1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA or by HUD through notice; or

(2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in (Increases in Adjusted Income) of this notice.

PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased **unless** the family has previously received an interim reduction during the same reexamination cycle.

Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years from the date of the family's first re-certification of income after the effective date of the FSS COP.

The PHA may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule.

Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract. Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families with the opportunity to use their increased earnings to realize other short- or long-term goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA Discretion: None

PHA Policy

The PHA will comply with the above requirements. **PHA shall not consider any increases in earned income** when estimating or calculating whether the family's

adjusted income has increased **unless** the family has previously received an interim reduction during the same reexamination cycle.

The PHA shall not perform interim reexaminations of annual income when enrolling tenants in the FSS program unless the family experienced a change in annual adjusted income that meets the 10 percent threshold for conducting an interim reexamination under the HOTMA final rule.

**PART IV:
CHANGES IN FAMILY COMPOSITIONS AND REMAINING
FAMILY MEMBERS AND PRIOR DEBT**

9-IV.A. CHANGES IN FAMILY COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the tenant must report changes in family composition. Changes in family composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are in Chapter 12.

24 CFR 966.4 (a)(1)(v)

The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide). The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

24 CFR 966.4 (d)(3)

(i) With the consent of the PHA, a foster child or a live-in aide may reside in the unit. The PHA may adopt reasonable policies concerning residence by a foster child or a live-in-aide and define the circumstances in which PHA consent will be given or denied.

Under such policies, the factors considered by the PHA may include:

(A) Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.

(B) The PHA's obligation to provide reasonable accommodation for handicapped person.

(ii) ***Live-in aide*** means a person who resides with elderly, disabled, or handicapped person and who:

(A) Is determined to be essential to the care and well-being of the person.

(B) Is not obligated for the support of the person; and

(C) Would not be living in the unit except to provide the necessary supportive services.

PHA Policy

Only authorized family or household members are allowed to reside in the Public Housing assisted unit. If a tenant wants to add a new family or household member, the tenant must request permission by completing the PHA's request for family composition change form, along with any required documentation. All tenants, those paying income-based rent as well as flat rent, must report within 10 calendar days all changes in family and household composition that occur between annual reexaminations (or annual

updates). The PHA will conduct reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member because of birth, adoption, or court-awarded custody does not require PHA approval. However, the tenant is required to report changes within 10 days and provide the required documentation. If the addition of a new family member by birth, adoption, or court-awarded custody requires a larger size unit, the tenant will be required to complete a transfer application and will be placed on the active public housing waiting list.

New Family Members Requiring Approval

A tenant must request PHA approval to add a new family member, except for birth, adoption, or court-awarded custody. The PHA defines new family members as a) the spouse, domestic partner, and their minor children, or b) tenant's child, stepchild, sibling, mother, father, grandparent, grandchild, mother-in-law, father-in-law.

The request must be made by the head-of-household, and the family must be in good standing. The proposed new family member must be eligible based on the PHA standards for occupancy eligibility which includes passing a criminal background check for new family members aged 18 and older.

No one becomes authorized to reside in the tenant's unit until permission has been granted by the PHA in writing. If permission is disapproved, tenant may request a grievance hearing to review the Manger's decision.

In the case of the head-of-household leaving unit, a new family member with permission to reside in the unit may have succession or a remaining family member right after the new family member has been residing in the unit for at least one year.

If adding a family member to a household requires a transfer to a larger size unit (under the transfer policy in Chapter 12), the PHA will approve the addition only if the tenant can demonstrate that there are medical needs, except for birth, adoption, and court-awarded custody. The PHA will reference the occupancy standards in determining the appropriate unit bedroom size for a family. See Chapter 5.

A family will not be permitted to be added to the lease. However, they can apply for their own public housing unit by going through the Public Housing application and eligibility process. This will prevent tenants moving their relatives into their units, to then vacate and leave their unit to their new added family member.

New Household Members Requiring Approval

The PHA defines household members as live-in aide, foster child, and foster adult. Tenants must request PHA approval to add a new household member such as live-in aide, foster child, or foster adult. Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

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

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the tenant in writing of its decision to deny approval of the new household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all the information required to verify the individual's eligibility.

If permission is granted, the income of the live-in aid, foster child, or foster adult will not be counted toward the rent. After the tenant's tenancy ends, the live-in aid, foster child, or foster adult has no succession or remaining family member rights.

Live-in Aide:

Live-in aide who resides with elderly (62 +), near elderly (50 +), disabled, or handicapped tenant would not be living in the unit except to provide the necessary supportive services and is determined to be essential to the care and well-being of the tenant. Occasional, intermittent, multiple, or rotating caregivers who do not typically reside in the unit do not count as live-in aides. Tenants must provide verification of the need for a live-in aide. To qualify for a live-in aide, tenant and their doctor must sign forms to verify that a live-in aide "Is essential to tenant's care and wellbeing." However, tenants select their own aide.

Federal Rules: Tenants' aides must be someone, "who is not obligated to support them."

About this rule: HUD does not clarify what this rule means. However, the PHA interprets this as mean: Cannot be tenant's spouse and cannot be tenant legal guardian. If disabled person is under age 18, cannot be a parent or someone with legal responsibility for the child. "Would not be living in the unit except to provide the necessary supportive services."

As required, a live-in-aide is allowed to have a family member live with them (for example, if the aide has a child). The family member needs to be approved by the PHA. The family member will need to pass criminal background check if an adult. While the aide can be granted an additional bedroom, there cannot be a second additional bedroom for the live-in aide's family. The live-in aide may have more than one family member living in the assisted unit. However, if there is more than one family member living there, the PHA will check for overcrowding. Since no more than one additional bedroom can be approved, the addition of one aide plus two aide family members (3 people total) would need to be checked to make sure this does not cause overcrowding or beyond the legal limit for the number of occupants allowed in the unit. If the tenant does not have an additional room available at the time of their request to add a live-in-aide, the tenant may

request a transfer application and be placed on the waiting list once a live-in aide is approved.

HUD policies state that an aide can be turned down for these reasons:

- Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Committed drug-related criminal activity or violent criminal activity within the last 3 years.
- Currently they owe rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance.

Departure of a Family Member or Household Member

If a family member or household member ceases to reside in the unit, the tenant must inform the PHA in writing within 10 calendar days by completing a PHA request for family composition change.

9.IV.B. REMAINING FAMILY MEMBER AND PRIOR DEBT

Legal Age Remaining Family Member:

If the Head of Household (HOH) dies or leaves the dwelling unit permanently for any reason, any remaining family members may continue to occupy the unit if there is at least one family member (not a live-in aide) or other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws. A new HUD Form-50058 must be completed updating the family's composition.³⁴

Temporary Adult Guardian due to Remaining Family Minors:

A PHA may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established. Once established, the PHA may add the new guardian as the new HOH in accordance with its screening policies. This will usually occur when the only remaining family members in the unit are minors, who otherwise would have to leave the unit.

Prior Debt by Former HOH:

The PHA is to first consider whether there are any remaining family members capable of executing a lease before permitting a new head of household to assume the lease. A PHA must not hold remaining family members under age 18 responsible for the rent arrearage incurred by the former HOH, nor for any amounts incurred before a new HOH attained age 18.³⁶

PHA Policy

If the head of the household ceases to reside in the unit, the family must inform the PHA within 10 calendar days.

Legal Age Remaining Family Member:

If the Head of Household (HOH) dies, the PHA will allow the remaining family members to continue to occupy the unit if there is at least one family member (not a live-in aide) or other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws.

If the Head of Household leaves the unit for any reason, the PHA will allow the remaining family members to continue to occupy the unit if there is at least one family member (not a live-in-aide,) or other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws. However, the remaining family members must be at least one year, residing in the unit.

Temporary Adult Guardian due to Remaining Family Minors:

The PHA will first consider any remaining family members capable of executing a lease before permitting a new head of household to assume the lease. When the only remaining family members are minors, the PHA will permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established, or any government agency can advocate for the temporary adult guardian.

Prior Debt by Former HOH:

The PHA will not hold remaining family members under age 18 responsible for the rent arrearage incurred by the former HOH, nor for any amounts incurred before a new HOH attained age 18.³⁶ However, any adult family member aged 18 or older, or new adult household member executing the lease will be responsible for any rent or delinquent balance due to the PHA by the former HOH.

9.IV.C. VIOLENCE AGAINST WOMEN ACT/BIFURCATE LEASE

Under the Violence Against Women Act (VAWA), the PHAs may choose to bifurcate a lease, or remove a household member from a lease to evict, remove, terminate occupancy rights, or terminate assistance to such member who engage in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. Such action by the PHA must be taken without regard to whether the household member is a signatory to the lease and without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. If a PHA bifurcate a lease and the individual who was evicted or for whom assistance was terminated was the only eligible tenant, the PHA must provide to any remaining tenant(s) who were not already eligible, a period of 30 calendar days from the date of the lease bifurcation to establish eligibility for the Public Housing program or another covered housing program, or to find alternative housing. Court-ordered eviction of the perpetrator pursuant to applicable laws results in the underlying lease becoming null and void once the PHA regains possession of the unit. The PHA must execute a new lease with the remaining eligible tenant.³⁷

PHA Policy

See Chapter 2, Part III.

PART V: ZERO INCOME FAMILIES

When families report zero income, PHAs have an obligation to pursue verification of income that reflects the family's lifestyle. One method is to examine the family's circumstances every 90 days until they have a stable income.³⁸ As a best practice, PHAs can require zero income families to complete a zero-income form. The form asks tenants to estimate how much they spend on telephone, cable TV, food, clothing, transportation, health care, childcare, debts, household items, etc., and whether any of these costs are being paid by an individual outside the family. If any such payments are received, they are to be verified accordingly and considered income.

Zero Income Procedures:

PHAs may accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify zero reported income. HUD does not require that such self-certification be notarized. PHAs are reminded that they must verify families' income in EIV within 120 days after admission, except where the PHA used Safe Harbor documentation to verify a family's income.

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching an upfront income verification source (see Level 5) for unreported income, such as a public benefits database to which the PHA has access. These procedures are meant to avoid improper payments and the need for repayment agreements. In calculating annual income from a zero-income worksheet, PHAs must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)).

PHAs perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs that establish zero income procedures must update their local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.

PHA Policy

Upon adult family members reporting no income status at admission, annual reexamination, or interim examination, PHA will require the adult member to sign a self-certification - "No Income Statement," that will not require notarization.

Since HUD does not require PHAs to conduct periodic zero income reviews, the PHA will only require zero income tenants to report any changes of income within 10 calendar days.

The PHA will perform an interim reexamination only due to an increase in the family's adjusted income in accordance with the final rule requirements established in this Chapter under the annual reexamination and interim process. Any tenant who begins receiving income which does not trigger an interim reexamination will no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.

The PHA will verify families' income in EIV within 120 days after admission for income and zero income tenants.

PART VI: OVER-INCOME FAMILIES

OVERVIEW

HOTMA Section 103 creates new limitations on tenancy and program participation for formerly income-eligible families residing in public housing with incomes over the newly created over-income (OI) limit. Therefore, PHA must implement Section 103 through their written policies. This part contains the HUD's regulations and the PHA's policies for managing over-income families.

9-VI.A. OVER-INCOME LIMITATION

HUD Notice PIH-2023-03(HA) issued March 13, 2023, as follows from bottom of page 4 through 19. With the publication of the final rule, all elements of Section 103 of HOTMA will become effective after 30 days, *i.e.*, March 16, 2023. The HOTMA final rule requires all PHAs to fully implement the OI requirements by June 14, 2023. There are no exceptions to the limitation on public housing tenancy for HUD assisted tenants who are determined to be over-income for 24 consecutive months.

Key Terms:

Alternative non-public housing rent (alternative rent) is the monthly amount a PHA must charge non-public housing over-income (NPHOI) families, if allowed by PHA policy to remain in a public housing unit, after they have exceeded the 24 consecutive month grace period. The alternative rent is defined as 24 CFR 960.102, as the higher of the Fair Market Rent (FMR), or per unit monthly subsidy. The monthly subsidy provided for the unit is determined by adding per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund. See 24 CFR 960.102 for more details about how HUD will calculate and publish such funding amounts.

Non-public housing over-income family (NPHOI family) is defined in 24 CFR 960.102 as a family that has exceeded the over-income limit for 24 consecutive months who remains in a public housing unit, as allowed by PHA policy, paying the alternative rent. These families are no longer public housing program participants and are unassisted tenants.

An over-income family (OI family) is defined in 24 CFR 960.102 as a family whose income exceeds the OI limit. This term includes families during the grace period or that are in the period before termination and are still public housing program participants. Note that in the public housing program, this term previously referred to a family that is not a low-income family (*i.e.*, a family with an income exceeding 80 percent Area Median Income (AMI)).

Over-income limit (OI limit) is defined at 24 CFR 960.102. In the regulations, this amount is determined by multiplying the applicable income limit for a very low-income (VLI) family, as

defined in 24 CFR 5.603(b), by a factor of 2.4 (i.e., 120 percent of the AMI). See section 7 below this notice for further information.

The Section 103 requirements of the HOTMA final rule, specifically 24 CFR 960.507, 960.509 and the relevant regulations discussed in part 6 of the HUD Notice PIH 2023-03(HA), will become effective 30-days after publication. At that time, the PHA should begin to implement their over-income policy after revising their ACOP if a significant amendment is not required. If the implementation of this provision requires a significant amendment to the PHA Plan, a PHA should immediately take steps to complete the significant amendment process to effectuate the policy change in their PHA Plan and ACOP no later than 120 days after the publication date of the over-income provisions of the HOTMA final rule. Specifically, this means that the OI family's tenancy and participation in the public housing program must end within six months of the final notice per 24 CFR 960.507(c)(3) and if the PHA policy permits the family to remain in a public housing unit, the family must be charged the alternative rent upon the completion of the grace period.

Effective Date of Over-Income: All over-income requirements, specifically 24 CFR 960.507, 960.509 and the relevant regulations discussed in the Notice PIH 2023-03(HA) are now effective as of March 16, 2023, and are to be fully implemented by June 14, 2023.

Summary of Associated Regulatory Changes

The HOTMA final rule includes the new over-income requirements and makes necessary conforming changes to existing regulations including the removal of 24 CFR 960.261. The final rule updated existing requirements in 24 CFR 5.520, 5.628, 960.102, 960.206, 960.253, 960.601, 964.125, and 966.4. All regulatory changes are summarized below in numerical order (except for the parts containing definitions). Parts 960.507, and 960.509 are new regulations specific to the implementation of the over-income requirements and will be discussed in section 7 below.

24 CFR 5.520 - Restrictions on assistance to Noncitizens

A conforming change was made to paragraph (d)(1) of this section to clarify that a PHA must provide prorated assistance to mixed immigration status families, except as provided in 24 CFR 960.507. Once a mixed family has exceeded the over-income limit for 24 consecutive months, the family will either have their tenancy terminated or they must pay the alternative rent as an NPHOI family. For a PHA with a termination policy for over-income families, mixed families will pay their current, prorated rent amount during the period before termination. If the mixed family is permitted to pay the alternative rent, then, pursuant to 24 CFR 5.520(d)(1), the mixed family must not receive prorated assistance. Instead, the family must pay the full alternative rent amount.

24 CFR 5.628 - Family Payment

A new sub-paragraph was added at 24 CFR 5.628(a)(5) clarifying that the options available under the total tenant payment (TTP) now include the alternative rent (as defined in 960.102) for NPHOI housing families.

24 FR 960.102 and 24 CFR 960.601 - Definitions

Additional definitions and clarifications were added to these sections to implement the new requirements found at 24 CFR 960.507 for families exceeding the over-income limit.

These changes create new definition in 24 CFR 960.102 for the following terms:

- alternative non-public housing rent (alternative rent),
- non-public housing over-income family (NPHOI family),
- over-income family (OI family) and
- over-income limit (OI limit) defined above.

PHAs should reference the definition of alternative rent for guidelines on how to set the rent for NPHOI families.

In 24 CFR 960.601, the definition of exempt individual was updated to clarify those members of an NPHOI family do not have to comply with the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR).

24 CFR 960.206 - Waiting list:

Local preferences in admission to public housing programs. This change creates a new local preference option for PHA admission. The PHA may choose to adopt this preference for NPHOI families who become a low-income family as defined in 24 CFR 5.603(b) and are eligible for re-admission to the public housing program. A PHA whose policy is to terminate OI families after the 24 consecutive month grace period may not use this preference because this preference may not be applied to current public housing families or OI families who have vacated the public housing project.

24 CFR 960.253 - Choice of Rent- Rent Options

Conforming changes have been made to paragraphs (a) and (f) of the HUD Notice PIH-2023-039HA) section to clarify the choice of rent in relation to NPHOI families and the new requirements found at 960.507. Families subject to 960.507 must pay the alternative rent, as stated in 960.253(a), when they've exceeded the grace period and allowed by PHA policy the option of remaining in a public housing unit. During the 24 consecutive month grace period, and in the period before termination, the family will continue to pay their current rent choice amount (i.e., the family's choice of income-based or flat rent, or the prorated rent for mixed families).

A conforming change has been made to paragraph (f) to clarify the exemption to the current practice of conducting a reexamination of family income every three years for a family that chooses the flat rent option.

The PHA must no longer apply the three-year reexamination provision to families once the PHA determines that the family is over-income. Once a PHA determines the family is over-income, the PHA must follow the documentation and notification requirements under 960.507(c).

PHAs have no discretion when it comes to the rent for NPHOI families. Once the grace period ends, and if the family is given the option to remain in a public housing unit and they choose to remain, then the family is required to pay the alternative rent as determined in accordance with

24 CFR 960.102. NPHOI families must not be given the choice of flat rent, income-based or prorated-rent.

24 CFR 960.257 - Family income and composition:

Annual and interim reexaminations. The final rule clarifies in 24 CFR 960.257(a)(5) that NPHOI families cannot be subject to income reexaminations. Additionally, 24 CFR 960.257(b)(4) states that, for over-income families in the period after the end of the 24 consecutive month grace period but before their tenancy termination pursuant to 24 CFR 960.507(d)(2), the PHA must conduct an interim reexamination of family income as otherwise required under 24 CFR 960.257. However, the resulting income determination will not make the family eligible to remain in the public housing program beyond the period before termination as defined by PHA policy. For over-income families who are in their grace period, 24 CFR 960.257 and 24 CFR 960.507(c) will dictate when income reexaminations occur *24 CFR 960.261*

Restriction on eviction of families based on income. [Removed]

Section 960.261(a) currently states that “PHAs may evict or terminate the tenancies of families who are over income...”. Paragraph (b) of this section created an exception to this discretionary policy for families with a valid contract for participation in the Family Self-Sufficiency (FSS) program under 24 part 984 and for families receiving the earned income disallowance (EID). As part of the rulemaking process Section 960.261 has been removed for two reasons.

First, the reference made in 24 CFR 960.261 to families who are over income is currently understood to mean a family whose annual income exceeds the limit for a low-income family at the time of initial occupancy which is 80 percent of the area median income (AMI) or lower. HUD has determined that 24 CFR 960.261 must be removed because the HOTMA OI limitation of 120 percent of AMI supersedes the prior regulation provision at 24 CFR 960.261; HOTMA establishes a new OI limit for families that have been admitted to the public housing program. This ensures that there is a singular definition of ‘over-income’ for continued occupancy in the public housing program. As a result of removing 24 CFR 960.261, a PHA may not evict or terminate the tenancy of OI families in the public housing program based on income **until** they have been over 120 percent AMI for 24 consecutive months and the PHA has implemented an OI policy in their written policies. Some PHAs may need to amend their written policies if they previously had a policy to not allow families to stay in the public housing program if their income exceeded 80 percent of AMI. Note that for initial occupancy in the public housing program, families must still not exceed 80 percent of AMI.

Second, 24 CFR 960.261 has been deleted to remove the exception to evict or terminate the tenancy of a family solely because the family is OI provided the family has a valid contract for participation in an FSS program under part 984 or if the family receives EID. With this final rule, HUD intends to be no exception to the HOTMA OI provision.

24 CFR 964.125 - Tenant Participation and Tenant Opportunities in Public Housing

Conforming changes have been made to paragraph (a) of this section to clarify those members of an NPHOI family, as described in 24 CFR 960.507, are no longer eligible to be members of a resident council. There is no PHA discretion to exempt an NPHOI family member from this regulation.

24 CFR 966.4 – Public Housing Program Lease requirements

HUD made conforming changes to the lease requirements under 24 CFR 966.4 (a)(2) regarding the term of the public housing lease for PHAs that have an over-income policy requiring termination after the grace period. This change requires the public housing lease to convert to a month-to-month term to account for the period before termination as determined by PHA policy. Lastly, the regulation at 24 CFR 966.4(l)(2)(ii) has also been revised to remove the reference to 24 CFR 960.261 as one of the grounds for termination and replaced it with a reference to 24 CFR 960.507. Paragraph (l) of this section now clarifies that being over the income limit for the program qualifies as grounds for termination pursuant to the new over-income limit provided in 24 CFR 960.507. All PHAs must update their public housing leases accordingly.

Implementing Over-Income Policies - (Section 7 of the PIH 2023-03-(HA))

As described above, HUD requires PHAs to update their ACOPs to conform to the new regulations for public housing families exceeding the income limit. Through the development of those policies, a PHA can consider where they could provide reasonable accommodation in the administration of the over-income requirements, provided such policies follow the 1937 Act and all applicable fair housing requirements. PHAs are subject to, among other fair housing and civil rights authorities, Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act, and Title II of the Americans with Disabilities Act (ADA), which include, among other requirements, the obligation to grant reasonable accommodations that may be necessary for persons with disabilities.¹⁰

Generally, the requirements to implement over-income policies are found in 24 CFR 960.507. This is a new section detailing the requirements that a PHA must follow for families exceeding the OI limit for the public housing program. The requirements of 24 CFR 960.507 apply to all public housing families including FSS families and families benefiting from Earned Income Disregard (EID).

Determination of the Over-Income Limit

The ‘over-income limit’ (OI limit) is now defined at 24 CFR 960.102. The OI limit is determined by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4. The VLI varies by jurisdiction⁶ and by family size so each PHA will have to calculate the OI limit for each family size in their public housing program.

For example, the 2022 VLI limit for a family of 4 in Washington, DC, is \$71,150, so the over-income-limit for that family size should be calculated as follows: $\$71,150 \times 2.4 = \$170,760$

See Appendix II as a step-by-step guide on looking up the VLI for an area and for more examples.

The OI limit must then be compared to the family’s annual income (per 24 CFR 5.611) during an annual or interim income examination. If the family’s annual income is greater than the OI limit, then they exceed the OI limit for the program and must be notified in accordance with 24 CFR 960.507(c) as described below in paragraph b of this section. This is a change from the guidance provided in Notice PIH 2019-11 which instructed PHAs to compare the OI limit to the family’s

adjusted income. The guidance provided in this notice, to use a family's annual income, applies going forward. PHAs do not need to redetermine a family's OI status based on this change in guidance for annual or interim reexaminations effective prior to the date of this notice.

Please note, HUD's income limits are developed by HUD's Office of Policy Development and Research and are updated annually. Information about the income limits and HUD's methodology for adjusting income limits as part of the income limits calculation, can be found at <https://www.huduser.gov/portal/datasets/il.html>.

As stated in section 5 of Notice PIH 2023-03(HA), a PHA must update the OI limits for the public housing program in their ACOPs no later than 60 days after HUD publishes new income limits each year. Once a family has been determined to be over-income, the PHA must follow the notification requirements described in 24 CFR 960.507(c).

Notification Requirements

The requirements on notifying OI families are found in the regulations at 24 CFR 960.507(c)(1)-(3). The notice requirements in the final rule supersede the notice requirements discussed in Notice PIH 2019-11, which only required two notices. The new notice requirements do not apply retroactively, so any family that has properly received notice under Notice 2019-11 will not be required to receive new notices per 24 CFR 960.507(c).

PHAs must follow the over-income notification process at 24 CFR 960.507(c) for any notices occurring after implementation of the HOTMA final rule. Therefore, a PHA must update their PHA Plan and/or ACOPs accordingly.

PHAs should be aware that with the publication of the final rule, OI families that have completed 24 consecutive month grace period under the old notification requirements do not get a new grace period.

The required notices under the final rule are as follows:

In accordance with 24 CFR 960.507(c)(1), the PHA must provide written notice to the OI family no later than 30 days after the PHA's initial determination, stating that the family has exceeded the OI limit as determined pursuant to an annual reexamination or an interim reexamination.

The notice must state that: (Initial Notice)

- (1) The family has exceeded the over-income limit, and
- (2) Continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families in accordance with 24 CFR 960.507(d). See 24 CFR 960.507(c)(1) for more information.

If the PHA determines the family has continued to exceed the over-income limit for 12 consecutive months after the initial OI determination, the PHA must provide written notification pursuant to 24 CFR 960.507(c)(2) no later than 30 days after the PHA's income examination that led to the 12-month over-income determination.

The notice must state that: (Second Notice)

- (1) The family's income has exceeded the over-income limit for 12 consecutive months, and
- (2) Continuing to exceed the over-income limit for the next 12 consecutive months will result in the family, either paying the higher alternative rent as a non-public housing over-income (NPHOI) family or termination of their tenancy, depending on the PHA's continued occupancy policies under 24 CFR 960.507(d). This notice should include the estimated alternative rent where applicable (see section 8 to determine the alternative rent). See 24 CFR 960.507(c)(2) for more information.

If the PHA determines the family has continued to exceed the over-income limit for 24 consecutive months after the initial OI determination, then the PHA must provide written notification pursuant to 24 CFR 960.507(c)(3) no later than 30 days after the PHA's income examination that led to the 24-month over-income determination.

The notice must state that: (Third and Final Notice)

- (1) The family has exceeded the over-income limit for 24 consecutive months, and
- (2) The PHA will either terminate the family's tenancy (in no more than six months) or charge the family the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner), depending on the PHA's continued occupancy policies under 960.507(d). See 24 CFR 960.507(c)(3) for more information.

Once a PHA determines through an annual reexamination or an interim reexamination that a family's income exceeds the applicable OI limit, the PHA must notify the family and make a note in the tenant file to calculate the family's income again 12 months later to see if the family remains over-income. PHAs are required to begin tracking the 24 consecutive month grace period once a family's income exceeds the applicable OI limit. After the initial OI determination is made, the PHA must conduct an income reexamination 12 months later to determine if the family remains over-income even if the family is paying the flat rent (24 CFR 960.253) and/or the date no longer coincides with the family's original annual reexamination date.

An income reexamination to determine if a family remains over-income does not reset the family's normal annual reexamination date. If a PHA discovers through an annual or interim income reexamination during the 24-month grace period that a previously over-income family is now below the over-income limit, the family is no longer over-income. In this case, a previous OI family would be entitled to a new 24 consecutive month grace period if the family's income once again exceeds the OI limit.

Scenario #1 – Uninterrupted grace period

For example, if a family is determined to be over-income at an interim reexamination, the 24 consecutive month grace period begins. The 24-month 'clock' continues to run if the family remains over-income as determined by another reexamination 12 months later. At the end of the 24th month of the grace period, if the family remains over-income the family will be subject to the over-income policy of the PHA (i.e., termination within 6 months or beginning to pay the alternative rent).

Scenario #2 – Interrupted grace period

If the family is determined to no longer be OI at any point within the 24-month period, the grace period no longer applies. The family remains an income-eligible public housing program participant. If the family is determined to be OI again in the future, they would be entitled to a new 24 consecutive month grace period.

PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. For persons with vision impairments, upon request and free of charge, this may include brailled materials, large print, or materials on tape. For persons with hearing impairments, upon request and free of charge, this may include sign language or other types of interpretation, appropriate auxiliary aids, and services, such as interpreters, transcription services, and accessible electronic communications, in accordance with Section 504 and ADA requirements (24 CFR 8.6 and 24 CFR 8.28; 28 CFR part 35, Subpart E).

Limitation on public housing tenancy

Once a family exceeds the over-income limit for 24 consecutive months,⁸ the public housing agency must either:

Charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

- (1) the applicable fair market rent (FMR) for a dwelling unit in the same market area of the same size; or
- (2) the amount of the monthly subsidy which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit.

OR

Terminate the tenancy of such a family in public housing not later than 6 months after the final notice per 24 CFR 960.507(c)(3) confirming that the family has been over-income for 24 consecutive months.⁹

Additional details of the above-mentioned process are discussed below. PHAs should read the entire notice before pursuing action against any potential OI family. Additionally, appendix I contains a summary of the above-mentioned process for ease of use by the PHA.

End of the grace period and Status of an Over-Income Family

This section describes the actions a PHA must take at the end of the grace period for over-income families. PHAs must ensure that OI families receive a grace period of 24 consecutive months before any adverse action is taken because of the family being over-income. A PHA can find these requirements in the regulations at 24 CFR 960.507 and 960.509.

Once a public housing family is determined to be over-income pursuant to an annual reexamination or an interim reexamination, the 24 consecutive month grace period begins. At all times prior to the end of 24 consecutive months, the family will continue to be public housing program participants. The change in OI family status will vary based on the over-income policy selected by the PHA.

PHA policy terminating the tenancy of Over-Income Families

In the case of a PHA with a policy to terminate OI families, these families continue to be +public housing program participants in the period before termination. It should be noted that while a PHA may choose to adopt a policy to terminate the tenancy of an OI family after the 24 consecutive month grace period, termination of tenancy is not equivalent to a judicial eviction. A judicial eviction typically occurs when a tenant fails to vacate the unit after their tenancy has been terminated, resulting in the need for judicial action initiated by the PHA to evict the tenant.

HUD expects that once an OI family receives proper notice of termination, many will leave voluntarily without necessitating court action. PHAs should note that the period before termination can be up to six months but could be less, as defined in the PHA policy.

In the period before termination, the OI family will continue to pay the rent type of their choice (i.e., income-based, flat rent, or prorated rent for mixed families). Additionally, the OI family is still a public housing program participant prior to termination, so the OI family must continue to abide by all program requirements including the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR).

Lastly, when an OI family is facing termination after exceeding the grace period, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

PHA Requirements for NPHOI Families Remaining in a Public Housing Unit

If permitted by PHA policy to remain in a public housing unit, an OI family that agrees to pay the alternative rent will become a non-public housing over-income (NPHOI) family. Once given the third and final OI notification as required by 24 CFR 960.507(c)(2), at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner, the family must execute a new lease created for NPHOI families and begin to pay the alternative rent. The family will no longer be public housing program participants and will become unassisted tenants once the new lease is signed.

If the PHA gives a family the option to pay the alternative rent and they decline, the PHA must terminate the tenancy of the family no more than 6 months after the end of the 24 consecutive month grace period. An OI family that declines to pay the alternative rent will continue to be a public housing program participant in the period before termination. As a result, PHAs that choose to permit OI families to remain in public housing units as NPHOI families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.

However, the PHA may permit, in accordance with its OI policies, an OI family to execute the new lease after the deadline, but before termination of the tenancy, if the OI family pays the PHA the total difference between the alternative rent and their public housing rent dating back to the date that is the earlier of 60 days after the date the final notice per 24 CFR 960.507(c)(3) or the date that would have been the next public housing lease renewal.¹⁰

If the PHA gives a family the option to pay the alternative rent and they accept, going forward the PHA may not conduct an annual reexamination of family income for an NPHOI family, but may offer hearing or grievance procedures at the discretion of the PHA. NPHOI families cannot participate in programs that are only for public housing or low-income families such as participating in a resident council,¹¹ or receiving a HUD utility allowance.¹² Lastly, PHAs are also reminded that NPHOI families are no longer subject to CSSR. See section below Determination of the Alternative Rent and the new lease for NPHOI families of this notice for additional lease requirements.

Once the new lease is executed, an NPHOI family may only be readmitted into the public housing program if they once again become an eligible low-income family as defined in 24 CFR 5.603(b) and reapply to the public housing program. The PHA may choose to adopt the new local preference provided at 24 CFR 960.206(b)(6) for NPHOI families. However, the adoption of this preference is at the discretion of the PHA.

For PHAs that adopted the CARES Act provisions to charge OI families the FMR as the alternative rent and elected not to terminate over-income families who exceed the grace period, those PHAs were required to have these families once again pay an income-based rent or a flat rent at their next annual reexamination until HUD published the final rule. With the implementation of the HOTMA final rule, these PHAs must now have the family sign a new lease per 24 CFR 960.509 and charge the alternative rent as of the effective date of the final rule or terminate the tenancy of these families in accordance with their OI policy. PHAs must provide these families with proper notice in accordance with any Federal, State, and local laws.

Reporting Requirements

In addition to the new requirements for over-income families, 24 CFR 960.507(f) requires PHAs to report on two new data points annually: the total number of OI families residing in public housing and the total number of families on waiting lists for admission to the public housing projects of the agency as of end of the year.¹³ The regulation uses the term ‘as of the end of the year’, and this notice makes clear that the ‘end of the year’ in this case will mean the end of the calendar year or December 31st. Per the regulations, this information must also be made publicly available.

To minimize the additional reporting burden, HUD has taken the following steps:

Data on the number of OI families residing in public housing:

The number of families residing in public housing with incomes exceeding the over-income limitation will include the number of families in the 24 consecutive month grace period, those that are in the period before termination and those that are NPHOI families paying the alternative rent. PHAs will report on the number of OI families residing in public housing through income data already provided by form HUD-50058, under OMB approval number 2577-0083 and through unit data in the Inventory Management System/PIH Information Center (IMS/PIC) and/or its successor system: the Housing Information Portal (HIP). Therefore, this report will require no additional action on the part of PHAs. HUD will pull a report of this data as of December 31st each year and make it publicly available.

Data on the number of families on waiting lists for admission to public housing projects:

The additional burden to submit waitlist data is a new requirement for all PHAs with a public housing program and the reporting period of this requirement will begin January 1, 2024. This is the earliest date PHAs can submit waiting list data to HUD. This data must be submitted via a new electronic data collection tool that has been developed in the Operating Fund Web portal. As this is an existing HUD system that PHAs are already familiar with and comfortable working in it is expected that the additional burden will be minimal.

A PHA that maintains both an agency-wide and site-based wait lists, should be mindful not to duplicate households when reporting on the total number of families on the waiting list. All information provided, such as the number of households and the status of the waiting list (open or closed), should be current as of December 31st of the previous calendar year. The data may be provided by any authorized PHA official but will require the electronic signature of the Executive Director.

HUD will make this new reporting module available beginning on January 1st and all submissions will be due by March 31st of each year.

A user guide and training video for the **Public Housing Waiting List Data Collection Tool** will be provided on the Operating Fund Web Portal. HUD will combine this data with the data provided in IMS/PIC and/or HIP and the HUD-50058 form and publish the *Public Housing Over-Income Families and Waiting-Lists Report* annually on the HUD website by April 30th of each calendar year. at:

https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph.

Determination of the Alternative Rent and the new lease for NPHOI families

Alternative non-public housing rent (alternative rent)

This notice provides additional information and guidelines for PHAs on setting alternative rents for NPHOI families that the PHA has allowed to remain in public housing. As discussed in section 4 of this notice, the alternative rent is a new definition in 24 CFR 960.102, and it is the monthly amount PHAs must charge NPHOI families after they have exceeded the 24 consecutive month grace period. **The alternative rent is defined as the higher of Fair Market Rent (FMR) or per-unit monthly subsidy.**

The amount of the monthly subsidy provided for the unit will be determined by adding the per unit assistance provided to a public housing property, as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund, for the most recent funding year. As these amounts will vary by allocation, HUD will publish the *Per Unit Subsidy Report* annually for all public housing developments by December 31st to help establish the alternative rents for the following calendar year. However, for the 2023 calendar year, the Per Unit Subsidy Report will be published in 2023 soon after the publication of the final rule. This report will be found on hud.gov at:

https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph.

Note that the published amount for a development is not automatically the alternative rent. Instead, the PHA must determine what amount to charge as the alternative rent by comparing the per unit subsidy amount for the development where an NPHOI family resides to the applicable FMR¹⁴ for a unit of the same bedroom size in the area. Whichever amount is higher the alternative rent will be applied to the family's new NPHOI lease. PHAs must update the information in IMS/PIC, and/or HIP (IMS/PIC's successor system) in a timely manner, to ensure that no unit that houses an NPHOI family receives public housing subsidy. Further, PHAs should be aware that since no public housing subsidy may support units occupied by NPHOI families, any delay may result in the PHA owing to HUD any improperly calculated subsidy amounts. For more information on properly reporting NPHOI families in IMS/PIC, please see Notice PIH-2021-35 or its successor notice.

NPHOI Lease

In response to the public comments solicited by the 2020 FR Notice, new regulations have been added at 24 CFR 960.509 regarding the minimum lease requirements for NPHOI families. A PHA may add additional terms to the lease for NPHOI families, so long as it is consistent with HUD regulations, State, and local laws.

PHAs are required to make their leases flexible enough to easily adjust rent as the FMR changes and as HUD publishes the per unit subsidy calculations.

For PHAs with an over-income termination policy, in the period before termination, the OI family will remain on the public housing lease. Should an OI family decline to execute the new NPHOI lease, the regulation at 24 CFR 966.4(a)(2)(iii) has been revised so that the public housing lease will become month-to-month for OI families in the period before termination and the PHA must continue to charge these families their current rent (i.e., the family's choice of income-based, flat rent, or prorated rent for mixed families).

In accordance with 24 CFR 960.507, and as stated in section 7 of this notice, the NPHOI family must execute a new lease and begin to pay the alternative rent.

This lease must include the minimal provisions proved in 24 CFR 960.509.

Examples of these provisions include:

Lease term and renewal - The lease must have a term as determined by the PHA and included in PHA policy. Unlike the public housing lease, a 12-month lease term is not required. PHA's may choose to offer NPHOI families leases on a month-to-month basis.

Security deposits - The lease must provide that any previously paid security deposit will be applied to the tenancy upon signing a new lease.

No automatic lease renewal - Upon expiration of the lease term, the lease shall not automatically renew.

Grievance procedures - The lease may include hearing or grievance procedures and may explain when the procedures are available to the family. However, it should be noted that hearing or grievance procedures for NPHOI families are at the discretion of the PHA.

Unit Tenant Status Category and Sub-Category

The IMS/PIC Development Submodule categorizes units by Unit Tenant Status Categories and Sub-Categories. Per Notice PIH 2021-35, PHAs must ensure that a unit meets the substantive requirements of a Unit Tenant Status Sub-Category for the entire period that it is in that Subcategory in IMS/PIC. Each Sub-Category corresponds to one of four Categories: Occupied, Vacant, Vacant HUD Approved, and Non-Dwelling.

At this time, PHAs will categorize units occupied by NPHOI families as ‘Non-Assisted Tenant Over Income’ in IMS/PIC. However, a new sub-category will be created in HIP. When this system is ready, PHAs will categorize units occupied by NPHOI families as ‘Non-Public Housing Over-Income (NPHOI) Tenant’.

Appendix I – How to Process an Over-Income Family

DETERMINATION:

Determine if the family’s income exceeds the Over-Income Limit.

Step 1: Go to <https://www.huduser.gov/portal/datasets/il.html> and follow the instructions in Appendix II to find the Very Low-Income amount for families in your jurisdiction.

Step 2: Use the following calculation to determine the Over-Income Limit:
Very Low-Income limit x 2.4 = Over-Income Limit

Step 3: If the family’s annual income is greater than the Over-Income Limit, then they exceed the Over-Income Limit and must be notified up to a total of three times.

NOTIFICATION:

Notify the family up to a total of 3 times that they have exceeded the Over-Income Limit.

Notice 1: Provide written notice to the OI family no later than 30 days after the PHA’s determination, stating that the family has exceeded the over-income limit.

Notice 2: If the PHA determined that the family’s income has exceeded the over-income limit for 12 consecutive months, the OI family must be provided with a written notice of this fact no later than 30 days after said determination.

This notice must inform the OI family that continuing to exceed the over-income limit for the next 12 consecutive months will result in the family:

- a. Paying the higher alternative rent as a non-public housing over-income family; OR
- b. Having their tenancy terminated.

Notice 3: If the PHA determined that the family's income has exceeded the over-income limit for 24 consecutive months, the OI family must be provided with written notice of this fact no later than 30 days after said determination.

This notice must inform the OI family that, at next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner, the family must:

- a. Pay the higher alternative rent as a non-public housing over-income family, OR
- b. Be terminated from their unit in no more than 6 months.

LIMITATION: After the 24 consecutive month grace period take the following actions:

1. Charge as the alternative rent for the unit occupied by the NPHOI family, the greater of:
 - a. The applicable FMR for a dwelling unit in the same market area of the same size; or
 - b. The amount of the monthly subsidy which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit.

OR

2. Terminate the tenancy of OI family in public housing not later than 6 months after the final notice per 24 CFR 960.507(c)(3) confirming that the family has been over-income for 24 consecutive months.
 - a. Lease convert to month-to-month term and PHAs must charge OI families, who continue to be public housing program participants, the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination.

9-VI.B. PHA OVER-INCOME POLICY

PHA has opt to "Terminate the family's tenancy within six months after their 24 months grace period." The PHA will follow the required regulations noted on the above HUD's Notice PIH-2023-03(HA) issued March 13, 2023, concerning Supplemental Guidance for Implementation of Section 103 on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016- (HOTMA)

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

According to the HUD's Notice PIH 2023-03(HA), HUD has provided PHAs with two options for their over-income families after they have exceeded the required 24 consecutive month grace period, which are as follow:

- 1) Terminate the family's tenancy within six months after their 24-month grace period; **or**

- 2) allow over-income families to remain in the public housing unit as a “non”-public housing tenants, paying an alternative non-public housing rent which is refer to “alternative rent” of the higher of the applicable fair market rent or the amount of the monthly subsidy provided for the unit. The per unit monthly subsidy includes amounts from the Operating and Capital Funds, as defined by the new regulations at 24 CFR 960.102.

If the PHA opts to allow these over-income families to remain residing in our public housing unit, these over-income families according to the regulations will no longer be considered public housing program participants and will be unassisted tenants.

According to the regulations this means the following:

- PHA must determine what amount to charge as the alternative rent by comparing the per unit subsidy amount for the development where the non-public housing over-come family resides to the applicable fair market rent for a unit of the same bedroom size in the area. Whichever amount is higher will be the alternative rent applied to the family which will receive a new “Non-Public Housing Over-Income Lease.”
- Mixed over-income families will not receive prorated assistance. The family must pay the full alternative rent amount.
- Members of these non-public housing over-income families do not have to comply with the Community Service Activities, or Self-sufficiency work activities requirements.
- The family will no longer be subject to income reexamination and will no longer have a choice of flat rent or income-based rent.
- Members of non-public housing over income families are no longer eligible to be members of a resident council.
- Non-public housing over income families cannot participate in programs that are only for public housing or low-income families such as participating in a resident council or receiving HUD utility allowance.
- Once the new lease is executed, a non-public housing over-income family may only be readmitted into public housing program if they once again become an eligible low-income family and reapply to the public housing program.

The PHA has opt to use option one, “Terminate the family’s tenancy within six months after their 24 months grace period” to fulfill the PHA purpose and mission to provide affordable subsidized housing to low and very-low-income families in our community who are in desperate need of affordable housing vs those who are over-income and who can afford the Fair Market Rent in private sectors, also to minimize homelessness in our community, to minimize the high volume of public housing applications received, to minimize the long waiting period for low and very low-income applicants to be placed in our public housing subsidized units, and to minimize the time-period to be able to open our public housing application process to the needy low and very low-income families in our community.

As required, the PHA converted its public housing lease to a month-to-month term to account for the period before termination as determined by PHA policy.

PHA will not evict or terminate the tenancy of OI families in the public housing program based on income **until** they have been over 120 percent AMI for 24 consecutive months. However, for initial occupancy in the public housing program, families must still not exceed 80 percent of AMI.

The 'over-income limit' (OI limit) is now defined at 24 CFR 960.102.

The PHA will determine the OI limit by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4. The PHA will calculate the OI limit for each family size in its public housing program.

For example, if the 2023 VLI limit for a family of four (4) in Bethlehem, PA is \$47,950, so the over income-limit for that family size should be calculated as follows: $\$47,950 \times 2.4 = \$115,080$.

The PHA will refer to the above Appendix II for a step-by-step guide on looking up the VLI for the area. The PHA will then compare the OI limit to the family's annual income (per 24 CFR 5.611) during an annual or interim income examination. If the family's annual income is greater than the OI limit, then they exceed the OI limit for the program and the PHA will notify the family in writing.

Please note, HUD's income limits are developed by HUD's Office of Policy Development and Research and are updated annually. Information about the income limits and HUD's methodology for adjusting income limits as part of the income limits calculation, can be found at:

<https://www.huduser.gov/portal/datasets/il.html>.

As required, in section 5 of Notice PIH 2023-03(HA), the PHA will update the OI limits for its public housing program in its ACOP no later than 60 days after HUD publishes new income limits each year. Once a family has been determined to be over-income, the PHA will follow the notification requirements described in 24 CFR 960.507(c).

An over-income family is defined as a family with an annual income that exceeds HUD's over-income limits. Over-income limit will be compared to family's annual income during an annual or interim income examination. If a 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). The PHA will refer to HUD PIH-2022-2023-03 (HA) Appendix 1 on How to Process an Over-income Family.

As required, families participating in the FSS Program who become over-income will be 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.

As required, for flat rent families, the PHA will no longer apply the three-year reexamination provision to families once the PHA determines that the family is over-income. Once a PHA determines the family is over-income, the PHA must follow the documentation and notification requirements under 960.507(c).

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 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-income 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 is 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. This notice will also inform the family that they have 60 days to vacate the premises on or before the date indicated.

The PHA will ensure that OI families receive a grace period of 24 consecutive months before any adverse action is taken because of the family being over-income. A judicial eviction typically occurs when a tenant fails to vacate the unit after their tenancy has been terminated, resulting in the need for judicial action initiated by the PHA to evict the tenant. The PHA and HUD expect that once an OI family receives proper notice of termination, many will leave voluntarily without necessitating court action.

In the period before termination, the OI family will continue to pay the rent type of their choice (i.e., income-based, flat rent, or prorated rent for mixed families). Additionally, the OI family is still a public housing program participant prior to termination, so the OI family must continue to abide by all program requirements including the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR). Families are public housing program participants until the tenancy is terminated by the PHA.

As requested, the family will be 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 for Over-Income Families in Chapter 6 and Chapter 13.

As also required, the PHA will ensure that termination occurs no more than six (6) months after the third notice. The PHA must give appropriate notice of lease tenancy termination, or notice to vacate, according to state and local laws. According to the requirements, the period before termination can be up to six months but could be less, as defined in the PHA policy. Therefore, once the third and final notice is sent and the over-income family does not voluntarily vacate within the 60 days' notice as indicated in the third and final notice, or request a grievance hearing to dispute the PHA's determination of their over-income status, the PHA will serve the over-income family with a 30-day lease termination notice to give the family their eviction due process, which should end before the six month, or less.

Accessibility:

The PHA will ensure that all notices and communications 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

- Accommodation for hearing impairments: Sign language or other interpretation, auxiliary aids, transcription services, and accessible electronic communications.
-

9-VI.C. 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 31st. However, according to the requirements this report will be pulled by HUD via form HUD-50058.

9-VI.D. INTERIM REEXAMINATION TO DETERMINE PUBLIC HOUSING OVER-INCOME STATUS

Regulations: 24 CFR § 960.507 – HUD Notice PIH 2023-27 – Issued September 29, 2023.

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit.

When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family’s income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family’s over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253).

The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family’s income fell below the over-income limit since the initial over-income determination.

The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family’s income fell below the over-income limit since the second over-income determination.

An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family’s normal annual reexamination date.

See Notice PIH 2023–03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example: Interim Reexamination of Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit. **The PHA must terminate their tenancy in no more than six months from the end of the 24-consecutive-month grace period, by 1/1/2027,**

or

charge them the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income eligible PH program participant.

If the family is determined to be over-income again in the future, they will be entitled to a new 24-consecutive-month grace period.

PHA Discretion: None.

PHA Policy

The PHA will comply with the above requirements.

PART VII: RECALCULATING TENANT RENT

9-VII.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-VII.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

PHA Policy

Adopted revised utility allowances will be applied to a family's rent calculations according to increases rent or decreases. If the revised utility allowance results in a rent decrease, the change will occur effectively at the first of the month when the revised utility allowance becomes effective. If the revised utility allowance results in a rent increase, the increase will be effective on the first of the month following the 30-day notice of rent increase. For more detail refer to Chapter 6 Part VIII.H.

9-VII.C. NOTIFICATION OF RENT CHANGE AND EFFECTIVE DATE

The public housing lease requires the PHA 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 PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

PHA Policy

The PHA will provide the tenant with written notice stating any changes in the amount of rent, and when the change is effective. **This notice will be accompanied by a calculation summary of how the rent was computed by the authority.**

9-VII.D. DISCREPANCIES/OVERPAYMENT OR UNDERPAYMENT

During an annual or interim reexamination, or a rent computation quality control review, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information, or that an error was made by the PHA staff. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15. Also refer to Chapter 6 Part IV.E.

Chapter 10

PETS AND ASSISTANCE ANIMALS

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

INTRODUCTION

This chapter explains the PHA's policies on the keeping of animals and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA in providing a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Assistance Animals (Service Animals and Other Assistance Animals): This part explains the difference between assistance animals and pets, and contains policies related to the designation of assistance animals as well as their care and handling.

Part II: Pets Policies: This part includes pet policies that are common for all public housing tenants.

Part III: Pet Deposits and Fees: This part contains policies for pet deposits and fees.

Part IV: Exhibits

EXHIBIT 10-1: Lease Agreement for Service Animal Policy/Agreement

EXHIBIT 10-2: Lease Agreement for Assistance Animal Policy/Agreement

EXHIBIT 10-3: Lease Agreement for Pet Policy/Agreement

**PART I:
ASSISTANCE ANIMALS' POLICIES**

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;
Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for a service animal, including support animals, may be denied, and establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs, and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies.

FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing the requests for assistance animals.

The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals:

- (1) service animals, and
- (2) other animals that do work, perform tasks, aids, and/or provide therapeutic emotional support for individuals with disabilities (**i.e., support animals**).

Assistance animals are not pets and thus are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]

Service Animals

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

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

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

If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is “no,” the animal does not qualify as a service animal but may be a support animal.

Service animal must be permitted in all areas of the facility where members of the public are allowed.

Support Animals

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested reasonable accommodation to get or keep an animal in connection with physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that he or she has a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual’s disability?
- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related

therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

General Considerations - Reasonable Accommodation

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].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves, and, in some cases, no special training is required. The question is whether the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

More Than One Animal

While most requests for reasonable accommodation involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together may each have a disability-related need for a separate assistance animal).

The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

PHA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and the PHA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING OF ASSISTANCE ANIMALS

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

PHA Policy

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

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

Residents must ensure that their other assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the dwelling unit, or property of other residents. When a resident's care or handling of an assistance animal violates these policies, the PHA will consider whether the violation could be reduced or eliminated by reasonable accommodation. If the PHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular assistance animal.

10-I.D. CONDITION AND RESTRICTIONS ON ASSISTANCE ANIMALS

Some conditions and restrictions that PHA apply to pets will NOT be applied to service animals and support animals.

PHA Policy

Because PHA understands that assistance animals are NOT pets, the following conditions and restrictions will NOT be applied:

- 1) Breed, size, and weight limitations will not be applied to assistance and service animals.
- 2) A pet deposit for service and assistance animals will not be required.
- 3) A service animal will not be required to be professionally trained. People with disabilities have the right to train the dog themselves. However, the dog must be already trained to perform before it is considered a service animal.
- 4) Proof that the service animal has been trained or certified will not be required.
- 5) An assistance animal does not have to be trained, or certified.
- 6) Residents or applicants will not be required to obtain liability insurance.

Because ADA requirements relating to service animals are different from the requirements relating to other assistance animals under the FHAct and Section 504, an individual's use of a service animal will not be handled as a request for reasonable accommodation under the FHAct or Section 504.

10-I.E. SERVICE ANIMAL INFORMATION

To determine if an animal is a service animal when an individual's disability and the work or tasks performed by the service animal are not readily apparent (e.g., individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using psychiatric service animal, individual with an autism-related disability using an autism service animal), PHA will not ask about the nature or extent of a person's disability, but only make the following two inquiries to determine whether an animal qualifies as a service animal:

- 1) Is this a service animal that is required because of a disability?
- 2) What work or tasks has the animal been trained to perform?

However, PHA will not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability.

For example:

The dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability.

The service animal will not be denied access, unless:

- 1) The service animal is out of control and its handler does not take effective action to control it.
- 2) The service animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination).

- 3) The animal poses a direct threat to the health or safety of others that cannot be reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.

A determination that a service animal possesses a direct threat shall be based on an individualized assessment of the specific service animal's actual conduct, NOT on fear, stereotypes, or generalizations.

The service animal will be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go.

PHA will ensure compliance with all relevant civil right laws, compliance with ADA, FHAct, and Section 504. PHA will not use the ADA definition of "service animal" as a justification for reducing its FHAct obligations.

PHA understands that under the FHAct, "an individual with a disability may have the right to have an animal other than a dog in his or her home if the animal qualifies as a 'reasonable accommodation' that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, assuming that the use of the animal does not pose a direct threat."

In the case where all three statutes apply, to avoid possible ADA violations PHA will apply the ADA service animal test first accordingly. A form named "Service Animal Test for Staff" has been created as a tool to guide the PHA staff and to ensure compliance. PHA will only ask the two inquiries noted on the form whether the animal is a service animal that is required because of a disability and if so, what work or tasks the animal has been trained to perform.

If the animal meets the test for "service animal," the animal will be permitted to accompany the individual with a disability to all areas of the facility as noted above. If the animal does not meet the ADA service animal test, then PHA will evaluate the request in accordance with the guidance provided in Section 1: Reasonable Accommodation for Assistance Animal under FHAct and Section 504, of the HUD's FHEO Notice: FHEO-2013-01 dated April 25, 2013.

10-I.F. OTHER ASSISTANCE ANIMAL INFORMATION

In order to help guide and educate the PHA's residents, applicants, and staff, in addition to avoid any misunderstanding between staff and tenants/ applicants, or to avoid any Disability-related complaints to HUD involving service animals or other assistance animals, a "Request for Assistance Animal Reasonable Accommodation" form has been created to be used as a tool to obtain required resident's information and information on **other** assistance animal to comply with applicable state and local laws, such as dog license current year and number, and dates of required inoculations such as rabies.

Individuals must provide copies of vaccination certificates and current dog license with their request for assistance animal reasonable accommodation. PHA will take a photo of the assistance animals and will evaluate the request for reasonable accommodation to possess an assistance

animal (e.g. support animals) in a dwelling using the general principles applicable to all reasonable accommodation requests.

After receiving the request, PHA will consider the following:

1. Does the person requesting to use and live with the animal have a disability – i.e. a physical or mental impairment that substantially limits one or more major life activities?
2. Does the above person needing the request have a disability-related need for an assistance animal? In other words, does the animal work, provide perform tasks or services for the benefit of the person above with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of the person’s existing disability?

If the answer to (1) or (2) is “no,” then the Fair Housing Act (FHAct) and Section 504 of the Rehabilitation Act of 1973 (Section 504) do not require a modification to PHA’s Pet Policy, and the reasonable accommodation request may be denied.

If the answer is “yes”, the FHAct and Section 504 require PHA to modify or provide an exception to PHA’s Pet Policy to permit a person with a disability to live with or use an assistance animal in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of PHA’s services.

This request may be denied if:

- 1) The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
- 2) The specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others will only be based on an individualized assessment that relies on objective evidence about the specific animal’s actual conduct, NOT on mere speculation or fear about the types of harm or damage an animal may cause and NOT on evidence about harm or damage that other animals have caused.

PHA WILL NOT deny a reasonable accommodation request because it is uncertain whether the person seeking the accommodation request has a disability or a disability-related need for an assistance animal.

PHA staff will ask the individuals who have disabilities that are not readily apparent or known to provide reliable documentation of a disability and their disability-related need for an assistance animal.

Medical Provider Verification:

PHA will assist the individuals by providing them with a PHA “Medical Provider Verification for an Assistance Animal” form. If the disability is readily apparent or known, but the disability-

related need for the assistance animal is not, PHA may ask the individuals to provide documentation of the disability-related need for an assistance animal. BHA will assist the individuals by providing them with a PHA “Medical Provider Verification for An Assistance Animal” form.

The individual-provided documentation or PHA Medical Provider Verification form may be written by the individual’s physician, psychiatrist, social worker, or other mental health professional to note that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

PHA will NOT ask for medical records or for detailed information of an individual’s physical or mental impairment.

For all approved service animals or assistance animal reasonable accommodations, refer to Lease Agreement has been established due to service animals and assistance animals not being the same and not having the same stipulations: **See Part V. Exhibits**

PART II: PET POLICY

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

10-II.A. OVERVIEW

The purpose of 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

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

PHA Policy

Pets must be registered with the PHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Pet registrations for dogs and cats will be monitored annually according to expiration dates of dogs and cats' inoculations, and according to dog license expiration dates.

Refusal to Register Pets

PHA Policy

The PHA 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

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 PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the PHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the PHA'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.

Pet Agreement

PHA Policy

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

The pet agreement is the resident's certification that he or she has received a copy of the PHA'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 them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the PHA's pet policy and applicable house rules may result in the withdrawal of PHA approval of the pet or termination of tenancy.

This pet agreement is an Addendum to the Lease Agreement Pet Policy/Agreement which will only be executed by residents who have requested to register a pet and has been approved. **See Part IV. Exhibit IV-3**

Refusal to Register Pets

PHA Policy

The PHA will refuse to register a pet if:

- The pet is not *a common household pet* as defined in Section 10-II.C.
- Keeping the pet would violate any pet restrictions listed in this policy.
- The pet owner fails to provide complete pet registration information or fails to provide updated information when requested by PHA when annually monitoring registrations according to expiration dates of dogs and cats' inoculations, and according to dog license expiration dates.
- The pet owner 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 PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations.
- The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.
- The tenant family is not in good standing with the PHA.
- If the PHA refuses to register a pet, a written notification will be sent to the pet owner within 10 calendar days of the PHA'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.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

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

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

PHAs may not require that cats be declawed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

PHA Policy

Common household pets mean a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids

- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

Pet Restrictions

PHA Policy

The following animals are not permitted:

- Any animal whose adult weight will exceed 30 pounds
- Dogs of the pit bull, rottweiler, chow, or boxer breeds
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
- Any animal not permitted under state or local law or code

Number of Pets

PHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog or a cat.

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 20 gallons. Such a tank or aquarium will be counted as 1 pet; only one aquarium will be permitted.

Other Requirements

PHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 calendar days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this 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.

Residents will be responsible for any damage attributable to their pets.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA 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

PHA Policy

Pets must be maintained within the residents' unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must always be under the control of the resident or other responsible individual.

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 development premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of buildings, or sections of building for residency by pet-owning tenants. PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants. PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

PHA Policy

Except for common areas as described in the previous policy, the PHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the PHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

PHA Policy

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 PHA.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to always maintain the unit in a sanitary condition.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall **not** be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

PHA Policy

Pet owners should not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

PHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

PHA Policy

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 appropriate 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 PHA property.

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

Responsible Parties

PHA Policy

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 PHA and sign a statement that they agree to abide by all the pet rules.

Pets Temporarily on the Premises

PHA Policy

Pets that are not owned by a tenant are not allowed on the premises. **Residents are prohibited from feeding or harboring stray animals.**

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by the PHA.

Pet Rule Violations

PHA Policy

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

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Notice for Pet Removal

PHA Policy

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 allotted by the PHA, the PHA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the PHA'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

PHA Policy

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 pet owner.

If the party responsible is unwilling or unable to care for the pet, or if the PHA after reasonable efforts cannot contact the responsible party, the PHA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

PHA Policy

The PHA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the period specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

Emergencies

PHA Policy

The PHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are 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 PHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed because of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Inspections

PHA Policy

The PHA may, after reasonable notice of 30 minutes to the tenant, enter and inspect the premises during reasonable hours, in addition to other inspections allowed.

PART III: PET DEPOSITS AND FEES

OVERVIEW

This part describes the PHA's policies for pet deposits and fees.

10-III.A. PET DEPOSITS

Payment of Deposit

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

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

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

PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is \$300.00. A minimum payment of \$50 is due on or prior to the date the PHA and resident enter into a Pet Agreement; the pet is not permitted on the premises until the initial security deposit payment is made. Additional payment amounts must be no less than \$50, and payment intervals may be no more than 1 month. Failure to pay the entire pet deposit within 6 months of signing the Pet Agreement will result in requiring the pet to be removed from the unit.

Refund of Deposit [24 CFR 5.318(d)(1)]

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

The PHA will refund the pet deposit to the residents, less the costs of any damage caused by the pet to the dwelling unit, within 30 days of move-out or removing the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the residents with a written list of any charges against the pet deposit within 30 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charge.

PHA Policy

The PHA will refund the pet deposit to the residents, less the costs of any damage caused by the pet to the dwelling unit, within 30 days of move-out or removing the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the residents 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 PHA will provide a meeting to discuss the charges.

10-III.B. OTHER CHARGES

Pet-Related Damages During Occupancy

PHA Policy

All reasonable expenses incurred by the PHA because of damage directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit.
- Repairs to common areas of the development/High-Rise

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 damage during occupancy.

Charges for pet-related damage are not part of the rent payable by the residents.

Pet deposits will not be applied to the costs of pet-related damage during occupancy, unless the resident is unable to care for the pet in an emergency. The Authority may use the pet deposit to pay for the cost of kenneling a pet in any emergency when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet or cannot be reached.

If the pet deposit funds are depleted because of the emergency cost incurred, the Authority will notify the resident and the resident must replenish the pet deposit amount, including paying any cost incurred beyond the security deposit. Failure to replenish the pet deposit and pay any extra cost incurred will lead to termination of the pet policy, including the tenancy of the resident. Charges for pet-related damage are not part of the rent payable by the residents.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

PHA Policy

A separate pet waste removal charge of \$25.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy. After 2 occurrences, the PHA may request that the pet be removed from the unit.

Charges for pet waste removal are not part of the rent payable by the residents.

Notices of pet waste removal charges 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 PHA may not act for nonpayment of the charge until the conclusion of the grievance process.

Pet deposits will not be applied to the costs of pet-related damage during occupancy, unless the resident is unable to care for the pet in an emergency. The Authority may use the pet deposit to pay for the cost of kenneling a pet in any emergency when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet or cannot be reached. If the pet deposit funds are depleted because of the emergency cost incurred, the Authority will notify the resident and the resident must replenish the pet deposit amount, including paying any cost incurred beyond the security deposit. Failure to replenish the pet deposit and pay any extra cost incurred will lead to termination of the pet policy, including the tenancy of the resident. Charges for pet-related damage are not part of the rent payable by the residents.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

PHAs may 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)].

PHA Policy

The PHA will not require a non-refundable pet fee for pet application.

**PART IV:
EXHIBITS**

EXHIBIT 10-1: LEASE AGREEMENT FOR SERVICE ANIMAL POLICY/AGREEMENT
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**Bethlehem Housing Authority
Lease Agreement
Service Animal Policy/Agreement**

In compliance with HUD Notice FHEO-2013-01 dated April 25, 2013, concerning Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs, along with applicable state and local laws regarding animals, the Bethlehem Housing Authority has established the following Addendum to Lease Agreement Service Animal Policy/Agreement. In addition, BHA has established requirements to maintain a safe, decent, and sanitary living environment for existing and prospective residents and to protect and preserve the physical condition of the properties owned and operated by BHA and the financial interest of BHA.

BHA understands that service animals and assistance animals are not the same and both are not considered pets. Therefore, the conditions and restrictions that BHA apply to pets and assistance animals are not applied to service animals.

This Addendum to the lease became effective commencing October 1, 2019.

I. Preamble

Resident may own and keep a service animal if they live in any of the Bethlehem Housing Authority developments and high rises:

- Pfeifle
- Bayard
- Pembroke
- Marvine
- Fairmount
- Lynfield
- Parkridge
- Monocacy Tower (High Rise)
- Litzenberger (High Rise)
- H.A. Bodder House (High Rise)

- R. J. Bartholomew House (High Rise)

The policy is established without imposing unnecessary burdens and restrictions on service animal owners and prospective service animal owners.

Persons who apply for occupancy will be notified of the right to own and keep a pet, a service animal, or an assistance animal at the time of their admission application.

The BHA’s Pet Policy and Assistance Animal Policy does not apply to service animals.

Exclusion applies to only service animals that reside in all developments/high rises, as well as to service animals that accompany its disabled owner when visiting any of BHA’s developments and high rises.

Additional service animal and assistance animal information is contained in Bethlehem Housing Authority’s Admissions and Continued Occupancy Policy, chapter 10.

II. The ADA Definition of Service Animal

A service animal is not a pet. DOJ’s revised ADA regulations define “service animal” narrowly as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.” The revised regulations specify that “the provision of emotional support, well-being, comfort, or companionship DO NOT constitute work or task for the purposes of this definition. Thus, TRAIN DOGS ARE THE ONLY ANIMAL THAT MAY QUALIFY AS SERVICE ANIMAL UNDER ADA (there is a separate provision regarding trained miniature horses), and emotional support animals are expressly precluded from qualifying as service animals under the ADA. **Note:** Under ADA, service animals can be any breed dog and do not have to be professionally trained by a professional service dog training program, nor have to wear a vest or patch or special harness identifying them as service animals. Individuals with disabilities have the right to train the dog themselves. The dog must already be trained before it is considered a service animal.

III. Request for Service Animal Reasonable Accommodation

Because the ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual’s use of a service animal in an ADA covered facility MUST NOT be handled as a request for reasonable accommodation under the FHAct or Section 504. Rather, in ADA-covered facilities, an animal need only to meet the definition of “service animal” to be allowed into a covered facility.

IV. Service Animal Permit

To determine if an animal is a service animal, the PHA will not ask about the nature or extent of a person’s disability, but may make the following two inquiries to determine whether an animal qualifies as a service animal and ONLY when an individual’s disability and the work or tasks performed by the service animal are NOT readily apparent (e.g., individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using a psychiatric service animal, an individual with an autism-related disability using an autism service animal):

- 1) Is this a service animal that is required because of a disability?

2) What work or tasks has the animal been trained to perform?

These two inquiries above WILL NOT be made when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (e.g., the DOG IS OBSERVED guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

PHA will not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. However, PHA will require current proof for required dog license and required inoculations, such as rabies.

- 1) The service animal is out of control and its handler does not take effective action to control it. ADA requires that service animals always be under control of the handler. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. If a service animal is out of control and the handler does not take effective action, staff may request that the animal be removed from the premises.
- 2) The service animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination).
- 3) The service animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, or procedures.

Note: A determination that a service animal poses a direct threat will be based on an individualized assessment of the specific service animal's actual conduct, not on fears, stereotypes, or generalizations.

The service animal will be permitted to accompany the individual with a disability to all areas of the developments/high rises where members of the public are normally allowed to go.

Upon determination of a service animal, a Service Animal Permit will be issued, along with a "wallet size" permit card. In addition, an Addendum to Lease Agreement Service Animal Policy/Agreement will be executed.

The PHA may revoke the service animal permit, at any time, if the animal is a nuisance or a threat to the health or safety of other people, or if the resident fails to comply with any provisions of the service animal policy or this Addendum to the Lease Agreement.

V. Conditions for Issuance of Service Animal Permit

- 1) The resident is responsible for complying with all local, state and federal laws and regulations governing the possession of their animals.

- 2) **Dog License:** Service animals are subject to local dog licensing and registration requirements. Residents who have a dog must get a current dog license from the proper authorities. The dog must always wear the license.

Inoculation: The resident must have its service animal inoculated and provide Bethlehem Housing Authority with updated proof of inoculations. The resident has the responsibility to check with the service animal's veterinarian to determine what vaccinations the service animal requires, such as rabies. Residents must comply with Pennsylvania law. Pennsylvania Law requires all **dogs** older than 12 weeks of age be rabies vaccinated by a licensed veterinarian. A follow-up rabies vaccination at 1 year is required and then every 3 years after that.

- 3) **Spayed/Neutered:** For service dogs, PHA does not require female dogs to be spayed or male dogs to be neutered. However, any puppies from the service dog will not be considered service dogs. Residents must remove these puppies from the housing developments/high rises. If the resident decided to stay with one puppy as a pet, the resident must apply for a pet permit and comply with the BHA Pet policy.
- 4) **Service Animal Vocal Cords:** BHA does not require any animal's vocal cords be removed.
- 5) **Service Animal Security Deposit:** BHA does not require security deposit for service animals or assistance animals.
- 6) **Charges to Resident:** The resident will be billed for any damage caused by the service animal. BHA will provide the resident with a written notice of any charges within 30 days of resident move out inspection, or the removal of the service animal inspection to give the resident the right to dispute the charges and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand. Inspections will be conducted by the BHA Maintenance Department.
- 7) **Service Animal-Related Damages During Occupancy:** All reasonable expenses incurred by the Authority because of damage directly attributable to the presence of the service animal in the development/high rise will be the responsibility of the residents, including, but not limited to the cost of:
 - Repairs and replacements to the resident's unit.
 - Fumigation of the dwelling unit. Note: The expense of flea elimination shall also be the responsibility of the residents.
 - Repairs to common areas of the development/high rise.

The residents shall be billed for such costs in accordance with the policies in Section 8-1. G, Maintenance and Damage Charges.

If the resident is unable to care for the service animal in an emergency, the Authority will charge the resident's account for the cost of kenneling a service animal when the designated service animal emergency care plan responsible parties listed cannot or will not accept the resident's service animal or cannot be reached.

Resident's failure to pay any expenses incurred by the Authority will lead to termination of resident's tenancy.

- 8) **Nuisance Charge: A \$25.00 nuisance charge** will be imposed when a maintenance worker, contractor, or inspector cannot gain entry for his scheduled call and must return at another time/date due to an unrestrained service animal. This charge will be posted to the resident's account for payment to give the resident the right to dispute the charge and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.
- 9) **Service Animal Emergency Care Plan:** The resident is encouraged to file a "Service Animal Emergency Care Plan." The plan is necessary in the event of the resident's death or is unable to care for the service animal in an emergency, which empowers the Authority to transfer the responsibility of service animal care to the responsible contact parties listed. The Authority will charge the resident for the cost of kenneling a service animal in any emergency when the designated service animal emergency care plan responsible contact parties listed cannot or will not accept the resident's service animal, or cannot be reached, or the resident failed to file a "Service Animal Emergency Plan."
- 10) **Service Animal Photo:** BHA will take a color photo of the service animal which will be kept in the resident's file.
- 11) **Service Animal Permit Card/Door Label:** The residents must display an approved service animal label, which the Authority will provide, on the entry door of their unit, plus maintain their approved wallet permit card.
- 12) **Alteration for Service Animal:** The residents must not alter their dwelling unit to create an enclosure for the service animal.

VI. Service Animal Management Plan

- A) Dogs remain inside a tenant's dwelling unit unless they are under the control of a responsible individual.
- B) Service animals must be crafted when residents are not home, in case of emergency or PHA personnel need to enter the dwelling unit. Service animals cannot be attached to handrails, doorknobs, molding or any BHA owned appliance at any time.
- C) The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. The dog must be off leash to do its job but may be leashed at other times. Handler must not allow service animals to wander away from her or him and must maintain control of the service animal, even if it is retrieving an item at a distance from her or him.
- D) Residents are responsible for the care and supervision of **their service animals**, which includes toileting, feeding, grooming, and veterinary care. The residents acknowledge responsibility for the cleanliness of their service animals and the daily removal of service animal waste in the following manner:
 - 1) It is the resident's responsibility to have their service animal housebroken and clean up after their service animal. For example: A "housebroken" dog is a dog that has been trained to eliminate outside. This is best achieved through regular trips outside. Proper housebreaking involves reinforcing elimination outside and careful observation of the dog's behavior to watch for signs of the dog's need to urinate or defecate. Residents may not store service animal's waste in their dwelling unit. Resident may not flush service animal waste.
 - 2) Residents must clean up **their service animals' residue daily**. The residents' dwelling unit must be always kept clean and free of animal odors.
 - 3) The cost of extermination for fleas, ticks and any other animal-related pests, caused by the presence of the resident's service animal, will be charged to the resident. The extermination will be arranged by the BHA to ensure prompt and proper rendering of the extermination service.
- E) The residents must not allow their service animal to disturb or interfere with the peaceful enjoyment of the living conditions of other residents who live in the housing development/high rise. This includes but is not limited to disturbances such as

consistent or excessive barking, howling, biting, scratching, chirping, or any other similar activity.

VII. Inspection of Dwelling Unit

Residents agree that the resident's dwelling unit is available for a service animal-related inspection at any time when given a thirty (30) minute verbal notice, if an emergency exists or after two (2) infractions of the policy.

VIII. Damages

Residents agree to be strictly liable for all damages caused by the service animal where liability is imposed by state or local law.

IX. Revocation of Service Animal Permit

A) The Authority may revoke a resident's service animal permit if the following conditions occur:

1. The service animal dies
2. The service animal is permanently removed from the housing development/high rise.
3. The Authority may revoke a resident's service animal permit after determining that at least one of the following conditions is a reasonable cause for revocation:
 - a) The specific service animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
 - b) The specific service animal in question causes substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.
 - c) Resident Has violated any part of the Addendum to Lease Agreement Service Animal Policy /Agreement.

- d) The service animal is a danger or hazard to the health and safety of the residents, management or visitors of the housing development/high rise.
- e) The service animal has caused repeated damage to the dwelling unit, common areas, or other residents' personal property.
- f) The service animal has bitten, scratched or caused an injury to another person.
- g) The service animal has defecated or urinated in the dwelling unit, common areas or outside and the resident failed to clean up after their service animal.
- h) The service animal has disturbed or interfered with the peaceful enjoyment of the living conditions of the other residents who reside in the housing development/high rise. Such examples include, but are not limited to, consistent or excessive barking, howling, chirping, scratching or any other disturbing activity.
- i) The required dog license has expired and has not been reissued, or residents failed to renew the license and provide proof to the Authority.
- j) The service animal inoculation certification has expired, and residents have failed to provide current proof of updated inoculations.
- k) If by report or inspection, it is found resident is neglecting the service animal.
- l) Violations of any applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in BHA Plan.

Note: Resident must return the service animal card to the management office, if service animal permit is revoked.

X. Death of Service Animal

In the event of the death of the resident's service animal, the resident is responsible for arranging the burial or other means of disposal of the dead animal off the premises of the housing development/high rise.

- A) Proof of animal disposal, according to public health regulations, must be provided.
- B) The unit will also be inspected for signs of service animal damage or vermin.

XI. Service Animal Rule Violation Procedure

Residents shall comply with the following Service Animal Rule Violation Summary:

A. Notice of Service Animal Rule Violation

1. Contain a brief statement of the factual basis for determination and the service animal rule or rules alleged to be violated.
2. State that the service animal owner has ten (10) days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the service animal) or to make a written request for a meeting to discuss the violation; and
3. State that the service animal owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting may result in initiation of procedures to have the service animal removed, or to terminate the service animal owner's tenancy, or both.

B. Service Animal Rule Violation Meeting

If the service animal owner makes a timely request for a meeting to discuss a service animal rule violation, the Housing Authority will establish a mutually agreeable time and place for the meeting no later than fifteen (15) days from the effective date of service of the notice of service animal rule violation. At the service animal rule violation meeting, the service animal owner and BHA shall discuss any alleged service animal rule violation. If the parties are unable to resolve the problem, the BHA may inform the service animal owner in writing that the service animal must be removed from the premises within ten (10) days of the service animal rule violation meeting.

C. Notice for Service Animal Removal

If the BHA determines that the service animal owner has failed to correct the service animal rule violation within the time provided under paragraph B of this section (including any additional time permitted by the BHA), the BHA may serve a notice to the service animal owner requiring the service animal owner to remove the service animal.

The notice will be in writing and will:

1. Contain a brief statement of the factual basis for determination and the service animal rule that has been violated.
2. State that the service animal owner must remove the service animal within ten (10) days of the effective date of the notice; and
3. State that failure to remove the service animal may result in initiation of the procedures to have the service animal removed or terminate the service animal owner's tenancy, or both.

Bethlehem Housing Authority
Addendum to Lease Agreement
Service Animal Policy/Agreement

I have read and understand the Bethlehem Housing Authority’s Addendum to Lease Agreement Service Animal Policy/Agreement.

I agree to abide by the conditions read and explained knowing that my violation of a service animal rule may result in the removal of my service animal from the premises of the BHA, or the termination of my tenancy with the BHA, or both.

IN WITNESS THEREOF, the parties have executed this Addendum to Lease Agreement Service Animal Policy/Agreement this

_____ day of _____, 20 _____.

Witness/BHA Authorized Representative

Signature of Head of Household

Signature of Co-Head of Household

Unit Address

I/we acknowledge that I/we have received a copy of the Addendum to Lease Agreement Service Animal Policy/Agreement.

Signature of Head of Household

Co-Head of Household

Tenant’s File

EXHIBIT 10-2: LEASE AGREEMENT FOR ASSISTANCE ANIMAL POLICY/AGREEMENT

Bethlehem Housing Authority

Assistance Animal Policy/Agreement

In compliance with HUD Notice FHEO-2013-01 dated April 25, 2013, concerning Service Animal and Assistance Animal for People with Disabilities in Housing and HUD-Funded Programs, along with applicable state and local laws regarding animals, the Bethlehem Housing Authority has established the following Addendum to Lease Agreement Assistance Animal Policy/Agreement. In addition, BHA has established requirements to maintain a safe, decent, and sanitary living environment for existing and prospective tenants and to protect and preserve the physical condition of the properties owned and operated by BHA and the financial interest of the BHA.

BHA understands that assistance animals are not the same and neither are they considered pets. Therefore, the conditions and restrictions that BHA applies to pets are not applied to assistance animals (e.g. service animals and support animals).

This Addendum to the lease became effective commencing October 1, 2019.

I. Preamble

Residents may own and keep an assistance animal if they live in any of the Bethlehem Housing Authority developments and high rises:

- 1) Pfeifle
- 2) Bayard
- 3) Pembroke
- 4) Marvine
- 5) Fairmount
- 6) Lynfield
- 7) Parkridge
- 8) Monocacy Tower (High Rise)
- 9) Litzenberger (High Rise)
- 10) H.A. Bodder House (High Rise)
- 11) R. J. Bartholomew House (High Rise)

The policy is established without imposing unnecessary burdens and restrictions on **other** assistance animal owners and prospective **other** assistance animal owners.

Persons who apply for occupancy will be notified of the right to own and keep a pet, a service animal, **or other** assistance animal (**e.g. support animals**) at the time of their admission application.

The BHA’s Pet Policy and Service Animal Policy does not apply to other assistance animals. Exclusion applies to only assistance animals that reside in all developments/high rises, as well as to service animals and other assistance animals that accompany its disabled owners when visiting any of BHA’s developments and high rises.

Additional service animal and assistance animal information is contained in Bethlehem Housing Authority’s Admissions and Continued Occupancy Policy.

II. Definition of Assistance Animal

An assistance animal is not a pet. It is an animal that works, aids, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability. For reasonable accommodation requests, neither FHAct nor Section 504 requires an assistance animal to be individually trained or certified.

III. Request for Other Assistance Animal Reasonable Accommodation

Residents who wish to apply for a request for assistance animal reasonable accommodation must file an application for an Assistance Animal Permit with their management office at 1429 Fritz Drive – Bethlehem, PA 18017, or High-Rise office at 645 Main Street – Bethlehem, PA 18018.

I. Assistance Animal Permit

Prior to placing an assistance animal into residency in any property operated by the BHA, an applicant or current resident must file a request for assistance animal reasonable accommodation. An Assistance Animal Permit will be issued after all initial conditions have been satisfied, along with a “wallet size” permit card.

The BHA may revoke the privilege of an assistance animal permit, at any time, if the animal is a nuisance or a threat to the health or safety of other people, or if the resident fails to comply with any provisions of the assistance animal policy or this Addendum to the Lease Agreement.

II. Conditions for Issuance of Assistance Animal Permit

- 1) The resident is responsible for complying with all local, state and federal laws and regulations governing the possession of their assistance animal.

- 2) **Dog License:** A resident who has a dog must get a dog license from the proper authorities annually. The dog must always wear the license. Note: The law does not require a cat license.
- 3) **Inoculation:** The resident must have its assistance animal inoculated and provide Bethlehem Housing Authority with proof of the assistance animal inoculation(s) prior to bringing the assistance animal into the resident's housing development/high rises. The proof of inoculation must be provided according to the expiration date. The resident has the responsibility to check with the assistance animal's veterinarian to determine what vaccinations the assistance animal requires, such as rabies.

Residents must comply with Pennsylvania law. Pennsylvania Law requires all **dogs** older than 12 weeks of age be rabies vaccinated by a licensed veterinarian. A follow-up rabies vaccination at 1 year is required and then every 3 years after that. All **cats** must be vaccinated for Rabies by 3 months of age, and the **vaccination** must be kept up to date.

- 4) **Spayed/Neutered:** BHA requires female cats and dogs to be spayed, and male cats and dogs must be neutered prior to bringing the assistance animal into the resident's **dwelling unit**. Residents must provide the Authority with medical certification that the cat or dog was spayed or neutered. A cat or dog is exempt from spaying or neutering if the resident provides the Authority with a medical certification that the assistance animal may suffer permanent harm or death from the operation because of factors such as the assistance animal age or illness.
- 5) **Assistance Animal Vocal Cords:** BHA does not require any animal's vocal cords be removed.
- 6) **Assistance Animal Security Deposit:** BHA does not require security deposits for assistance and service animals.
- 7) **Charges to Tenant:** The residents will be billed for any damage caused by the assistance animal. BHA will provide the resident with a written notice of any charges within 30 days of resident move out inspection, or the removal of the assistance animal inspection to give the resident the right to dispute the charges and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand. Inspection will be conducted by the BHA Maintenance Department.
- 8) **Assistance Animal-Related Damages During Occupancy:** All reasonable expenses incurred by the Authority because of damage directly attributable to the presence of

assistance animal in the development/high rise will be the responsibility of the resident, including

- The cost of repairs and replacements to the resident's unit
- Fumigation of the dwelling unit. Note: The expense of flea elimination shall also be the responsibility of the residents.
- Repairs to common areas of the development/high rise.

The residents shall be billed for such costs in accordance with the policies in Section 8-1. G, Maintenance and Damage Charges.

If the resident is unable to care for the assistance animal in an emergency, the Authority will charge the resident's account for the cost of kenneling an assistance animal when the designated assistance animal emergency care plan responsible for contact parties listed cannot or will not accept the resident's assistance animal or cannot be reached.

Resident's failure to pay any expenses incurred by the Authority will lead to termination of tenancy.

- 9) **Nuisance Charge: A \$25.00 nuisance charge** will be imposed when a maintenance worker, contractor, or inspector cannot gain entry for his scheduled call and must return at another time/date due to an unrestrained assistance animal. This charge will be posted to the resident's account for payment to give the resident the right to dispute the charge and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.

- 10) **Assistance Animal Emergency Care Plan:** The resident must file an "Assistance Animal Emergency Care Plan" as part of the reasonable accommodation process. The plan is necessary in the event of the resident's death or inability to care for the assistance animal in an emergency, which empowers the Authority to transfer the responsibility of assistance animal care to the responsible contact parties listed. The Authority will charge the resident for the cost of kenneling an assistance animal in any emergency when the designated assistance animal emergency care plan responsible contact parties listed cannot or will not accept the resident's assistance animal or cannot be reached.

- 11) **Assistance Animal Photo:** The resident must allow BHA to take a color photo of the assistance animal which will be kept in the resident's file.

- 12) **Assistance Animal Permit Card/Door Label:** The residents must display an approved assistance animal label, which the Authority will provide, on the entry door of their unit, plus maintain their approved wallet permit card.

13) **Alteration for Assistance Animal:** The residents must not alter their dwelling unit to create an enclosure for the assistance animal without resident's request for reasonable accommodation to alter the unit.

III. **Assistance Animal Management Plan**

- A) Dogs and cats must remain inside a resident's dwelling unit unless they are on a leash and under the control of a responsible individual. Assistance animal must be crated when residents are not home, in case of an emergency or BHA personnel needing to enter the dwelling unit. Assistance animal cannot be attached to handrails, doorknobs, molding or any BHA owned appliance at any time.
- B) The residents acknowledge responsibility for the cleanliness of their assistance animal and the daily removal of assistance animal waste in the following manner:
 - 1) Cats must use a litter box, which is kept within the resident's dwelling unit. Assistance animal waste must be placed in a plastic bag, which is tightly closed and disposed of in a designated receptacle. Assistance animal waste must be disposed of daily.
 - 2) It is the resident's responsibility to have their assistance animal (such as a dog) housebroken and clean up after their assistance animal. For example: A "housebroken" dog is a dog that has been trained to eliminate outside. This is best achieved through regular trips outside. Proper housebreaking involves reinforcing elimination outside and careful observation of the puppy's behavior to watch for signs the puppy needs to urinate or defecate.

NOTE: Resident may not store assistance animal waste in their dwelling unit. Residents may not flush assistance animal waste, especially any waste mixed with kitty litter, down the toilet, sink, bathtub or any type of drain.

- 3) Residents must clean up animal residue daily. The residents' dwelling unit must be always kept clean and free of animal odors.
 - 4) The cost of extermination for fleas, ticks and any other animal-related pests, caused by the presence of the resident's assistance animal, will be charged to the resident. The extermination will be arranged by the BHA to ensure prompt and proper rendering of the extermination service.
- C) The residents must not allow their assistance animal to disturb or interfere with the peaceful enjoyment of the living conditions of other residents who live in the housing

development/high rise. This includes but is not limited to disturbances such as consistent or excessive barking, howling, biting, scratching, chirping, or any other similar activity.

IV. Inspection of Dwelling Unit

As a condition of accepting the Assistance Animal Permit, the resident agrees that the resident's dwelling unit is available for an assistance animal-related inspection at any time when given thirty (30) minute verbal notice if an emergency exists or after two (2) infractions of the policy.

V. Damages

Residents agree to be strictly liable for all damages caused by the assistance animal where liability is imposed by state or local law.

VI. Revocation of Assistance Animal Permit

- A) The Authority may revoke a resident's assistance animal permit if the following conditions occur:
- 1) The assistance animal dies
 - 2) The assistance animal is permanently removed from the housing development/high rise.
- B) The Authority may revoke a resident's assistance animal permit after determining that at least one of the following conditions is a reasonable cause for revocation:
- 1) The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
 - 2) The specific assistance animal in question has caused substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.
 - 3) Resident has violated any part of the Addendum to Lease Agreement Assistance Animal Agreement.

- 4) Animal assistance is a danger or hazard to the health and safety of the residents, management or visitors of the housing development/high rise.
- 5) The assistance animal has caused repeated damage to the dwelling unit, common areas, or other residents' personal property.
- 6) The assistance animal has bitten, scratched or caused injury to another person.
- 7) The assistance animal has defecated or urinated in the dwelling unit, common areas or outside and the resident failed to clean up after their assistance animal.
- 8) The assistance animal has disturbed or interfered with the peaceful enjoyment of the living conditions of the other residents who reside in the housing development/high rise. Such examples include, but are not limited to, consistent or excessive barking, howling, meowing, chirping, scratching or any other disturbing activity.
- 9) The required dog license has expired and has not been reissued, or resident failed to renew the license on an annual basis and provide proof to the Authority.
- 10) The assistance animal inoculation certification has expired, and residents have failed to provide current proof of updated inoculation.
- 11) If by report or inspection, it is found resident is neglecting the assistance animal.
- 12) Violations of any applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in BHA Plan.

Note: Resident must return the assistance animal card to the management office, if assistance animal permit is revoked.

VII. Death of Assistance Animal

In the event of the death of the resident's assistance animal, the resident is responsible for arranging the burial or other means of disposal of the dead animal off the premises of the housing development/high rise.

- A) Proof of animal disposal, according to public health regulations, must be provided.
- B) The unit will also be inspected for signs of assistance animal damage or vermin.

VIII. Assistance Animal Rule Violation Procedure

Residents shall comply with the following Assistance Animal Rule Violation Summary:

A. Notice of Assistance Animal Rule Violation

1. Contain a brief statement of the factual basis for determination and assistance animal rule or rules alleged to be violated.
2. State that the assistance animal's owner has ten (10) days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the assistance animal) or to make a written request for a meeting to discuss the violation; and
3. State that the assistance animal owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting may result in initiation of procedures to have the assistance animal removed, or to terminate the assistance animal owner's tenancy, or both.

B. Assistance Animal Rule Violation Meeting

If the assistance animal owner makes a timely request for a meeting to discuss an assistance animal rule violation, the Housing Authority will establish a mutually agreeable time and place for the meeting no later than fifteen (15) days from the effective date of service of the notice of assistance animal rule violation. At the assistance animal rule violation meeting, the assistance animal owner and BHA shall discuss any alleged assistance animal rule violation. If the parties are unable to resolve the problem, the BHA may inform the assistance animal owner in writing that the assistance animal must be removed from the premises within ten (10) days of the assistance animal rule violation meeting.

C. Notice for Assistance Animal Removal

If the BHA determines that the assistance animal owner has failed to correct the assistance animal rule violation within the time provided under paragraph **B** of this section (including any additional time permitted by the BHA), the BHA may serve a notice to the assistance animal owner requiring the assistance animal owner to remove the assistance animal.

The notice will be in writing and will:

1. Contain a brief statement of the factual basis for determination and the assistance animal rule that has been violated.
2. State that the pet owner must remove the assistance animal within ten (10) days of the effective date of the notice; and
3. State that failure to remove the assistance animal may result in initiation of the procedures to have the assistance animal removed or terminated the assistance animal owner's tenancy, or both.

Bethlehem Housing Authority
Addendum to Lease Agreement
Assistance Animal Policy/Agreement

I have read and understand the Bethlehem Housing Authority's Addendum to Lease Agreement Assistance Animal Policy/Agreement.

I agree to abide by the conditions read and explained knowing that my violation of an assistance animal rule may result in the removal of my assistance animal from the premises of the BHA, or the termination of my tenancy with the BHA, or both.

IN WITNESS THEREOF, the parties have executed this Addendum to Lease Agreement Assistance Animal Policy/Agreement this

_____ day of _____, 20 _____.

Witness/BHA Authorized Representative

Signature of Head of Household

Signature of Co-Head of Household

Unit Address

I/we acknowledge that I/we have received a copy of the Addendum to Lease Agreement Assistance Animal Policy/Agreement.

Signature of Head of Household

Co-Head of Household

Tenant's File

EXHIBIT 10-3 LEASE AGREEMENT FOR PET POLICY/AGREEMENT

Bethlehem Housing Authority

Addendum to Lease Agreement Pet Policy/Agreement

In compliance with HUD Notice FHEO-2013-01 dated April 25, 2013, the Bethlehem Housing Authority has revised the following Addendum to Lease Agreement Pet Policy/Agreement because BHA understands that service animals and assistance animals are not the same and neither are considered pets. Therefore, the conditions and restrictions that BHA apply to pets are not applied to service animals and **other** assistance animals. In addition, BHA has made a few revisions to improve the addendum to the Lease Agreement Pet Policy/Agreement and as HUD allows PHAs discretion to adopt requirements.

This Addendum to Lease Agreement became effective commencing October 1, 2019.

I. Preamble

In compliance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998, which provides that public housing authority residents cannot be prevented from owning pets, and in accordance with the Final Rule (July 10, 2000) on pet ownership in public housing which allows authorities the discretion of devising reasonable limitations, the Bethlehem Housing Authority (BHA) therefore establishes the following PET POLICY. Residents may own and keep a maximum of 2 common household pets, only 1 of which may be a dog or cat, if they live in any of the Bethlehem Housing Authority developments and high rises:

- 1) Pfeifle
- 2) Bayard
- 3) Pembroke
- 4) Marvine
- 5) Fairmount
- 6) Lynfield
- 7) Parkridge
- 8) Monocacy Tower (High Rise)
- 9) Litzenberger (High Rise)
- 10) H.A. Bodder House (High Rise)
- 11) R. J. Bartholomew House (High Rise)

Residents who choose to own and keep a pet in their designated units must abide by the Pet Policy which is established by the BHA.

The Pet Policy was established to maintain a safe, decent, and sanitary living environment for existing and prospective residents and to protect and preserve the physical condition of the developments/high rises and the financial interest of the BHA.

The policy is established without imposing unnecessary burdens and restrictions on pet owners and prospective pet owners.

Persons who apply for occupancy will be notified of the right to own and keep a pet, a service animal, or an assistance animal at the time of their admission application.

The BHA's pet policy does not apply to service animals and assistance animals.

This exclusion applies to service animals and assistance animals that reside in all developments/high rises, as well as to service animals and assistance animals that accompany its disabled owner when visiting any of BHA's developments and high rises.

Additional Pet Policy information is contained in Bethlehem Housing Authority's Admissions and Continued Occupancy Policy.

II. Definition of Common Household Pet

A Common Household Pet is a domesticated animal, such as a dog, cat, bird or fish that is traditionally kept in the home for pleasure rather than for commercial purposes.

The Bethlehem Housing Authority has the right to limit the size, weight and type of common household pet that is allowed in its housing developments/high rises.

The BHA's definition and limitation of a common household pet is the following:

- 1) DOG – not to exceed **30 pounds** in weight at its maturity.
- 2) CAT – not to exceed **20 pounds** in weight at its maturity; must be a domestic cat; must be declawed.
- 3) BIRD – a small, domesticated bird; must be kept in an approved cage. (No more than 2 birds)
- 4) FISH – must be kept in an approved fish tank, which cannot exceed twenty 20 gallons of water.
- 5) No other living creature will be a common household pet.

III. Pet Application Registration

Residents who wish to apply for a Pet Permit, must file an application for a Pet Permit with their development office at 1429 Fritz Drive – Bethlehem, PA 18017, or high-rise office at 645 Main Street – Bethlehem, PA 18018.

IV. Pet Permit

Prior to placing a pet into residency in any property operated by the BHA, an applicant or current resident must file an application for a Pet Permit. A Pet Permit will be issued after all initial pet policy conditions have been satisfied, along with a “wallet size” permit card.

The BHA may revoke the privilege of a pet permit, at any time, if the animal is a nuisance or a threat to the health or safety of other people, or if the pet owner fails to comply with any provisions of the pet policy.

V. Conditions for Issuance of Pet Permit

- 1) The resident is responsible for complying with all local, state and federal laws and regulations governing the possession of their pet.
- 2) **Dog License:** A resident who has a dog must get a dog license from the proper authorities annually. The dog must always wear the license. Note: The law does not require a cat license.
- 3) **Inoculation:** The resident must have its pet inoculated and provide Bethlehem Housing Authority with proof of the pet’s inoculation(s) prior to bringing the pet into the resident’s housing development/high rise. The proof of inoculation must be provided according to the expiration date. The resident has the responsibility to check with the pet’s veterinarian to determine what vaccinations the pet requires, such as rabies and distemper.

Residents must comply with Pennsylvania law. Pennsylvania Law requires all **dogs** older than 12 weeks of age be rabies vaccinated by a licensed veterinarian. A follow-up rabies vaccination at 1 year is required and then every 3 years after that. All **cats** must be vaccinated for Rabies by 3 months of age and the **vaccination** must be kept up to date.

- 4) **Spayed/Neutered:** Female cats and dogs must be spayed, and male cats and dogs must be neutered prior to bringing the pet into the resident’s housing development/high rise. Residents must provide the Authority with medical certification that the cat or dog was spayed or neutered. A cat or dog is exempt from

spaying or neutering if the resident provides the Authority with a medical certification that the pet may suffer permanent harm or death from the operation because of factors such as the pet's age or illness.

- 5) **Pet's Vocal Cords:** BHA does not require any pet's vocal cords to be removed.
- 6) **Pet Security Deposit:** The resident, who has a cat or a dog, must pay a **Pet Deposit of \$300.00**. The pet deposit is not a rent security deposit but is a charge in addition to any rent-related cost.

In the event of a resident's financial hardship, the resident may pay the pet deposit in installments. A minimum payment of \$50 is due on or prior to the date the PHA and resident enter into a Pet Agreement; the pet is not permitted on the premises until the initial security deposit payment is made. Additional payment amounts must be no less than \$50, and payment intervals may be no more than 1 month.

Failure to pay the entire pet deposit within 6 months of signing the Pet Agreement will result in requiring the pet to be removed from the unit.

- 7) **Pet Security Deposit Refund:** The Authority will refund any unused portion of the pet deposit to the resident within 30 days after the resident moves from the development/high rise or no longer owns or keeps a pet in the dwelling unit.

The unit will also be inspected for signs of damage or vermin prior to the pet deposit being returned to the resident.

The resident will be billed for any amount that exceeds the pet deposit. The Authority will provide the resident with a written notice of any charges against the pet deposit within 30 days of resident move out inspection, or the removal of the pet inspection to give the resident the right to dispute the charge and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand. Inspection will be conducted by the BHA Maintenance Department.

- 8) **Pet-Related Damages During Occupancy:** All reasonable expenses incurred by the Authority because of damage directly attributable to the presence of the pet in the development/high rise will be the responsibility of the residents, including:
 - The cost of repairs and replacements to the resident's unit
 - Fumigation of the dwelling unit. Note: The expense of flea elimination shall also be the responsibility of the residents.
 - Repairs to common areas of the development/high rise.

If the residents are in occupancy when such a cost occurs, the resident shall be billed for such costs in accordance with the policies in Section 8-1. G, Maintenance and Damage Charges.

A pet deposit will not be applied to the costs of pet-related damages during occupancy, or to the cost of kenneling a pet in any emergency situation when the resident is unable to care for the pet in an emergency situation or when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet, or cannot be reached.

Any emergency cost incurred, the Authority will notify the resident in writing and post it to the resident's account for payment to give the resident the right to dispute the charge and request an informal hearing within 10 calendar days from receipt of the notice. If the residents do not request a hearing within the required period, charges will stand. Failure to pay any cost incurred will lead to termination of the pet policy, including the tenancy of the resident.

- 9) **Non-refundable Fee:** The BHA may impose a nominal, non-refundable fee, after the second infraction of non-compliance with the pet policy. This fee would be no more or no less than **\$25.00**. This fee will be posted to the resident's account for payment to give the resident the right to dispute the fee and request an informal hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.
- 10) **Nuisance Charge:** A **\$25.00 nuisance charge** will be imposed when a maintenance worker, contractor, or inspector cannot gain entry for his scheduled call and must return at another time/date due to an unrestrained animal. This charge will be posted to the resident's account for payment to give the resident the right to dispute the charge and request an informal hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.
- 11) **Pet Emergency Care Plan:** The resident must file a "Pet Emergency Care Plan" as part of the application process. The plan is necessary in the event of the resident's death or inability to care for the pet in an emergency, which empowers the Authority to transfer the responsibility of pet care to the responsible contact parties listed.
- 12) **Pet Photo:** The resident must provide a color photograph of the pet or allow BHA to take a color photo of the pet which will be kept in the resident's file.
- 13) **Pet Permit Card/Door Label:** The residents must display an approved pet label, which the Authority will provide, on the entry door of their unit, plus maintain their approved wallet permit card.

14) **Alteration for Pet:** The residents must not alter their dwelling unit to create an enclosure for the pet or create any other alteration for pet.

VI. **Pet Management Plan**

- A) A maximum of 2 common household pets will be allowed per household, only 1 of which may be a dog or cat. For example: One dog and a 20-gallon fish tank with fish may be allowed, but not a dog and a cat together.
- B) Dogs and cats must remain inside a resident's dwelling unit unless they are on a leash and under the control of a responsible individual.
- C) Birds must be always confined in a cage and the unit kept clean and odor free.
- D) Pets are not allowed on the elevators in the Hi-Rises, unless no one on the elevator objects to the pet's presence. Elevator riders, who are not accompanied by a pet, have priority use of the elevator.
- E) Pets are not permitted in any common areas within the housing developments, except when directly leaving or entering the units.
- F) Pets must be crated when residents are not home, in case of emergency or if BHA personnel need to enter the dwelling unit. Pets cannot be attached to handrails, doorknobs, molding or any BHA owned appliance at any time.
- G) The residents acknowledge responsibility for the cleanliness of their pet and the daily removal of pet waste in the following manner:
 - 1) Cats must use a litter box, which is kept within the resident's dwelling unit. Pet waste must be placed in a plastic bag, which is tightly closed and disposed of in a designated receptacle. Pet waste must be disposed of daily.
 - 2) It is the resident's responsibility to have their pets (such as a dog) house-broken and clean up after their pets. For example: A "housebroken" dog is a dog that has been trained to eliminate outside. This is best achieved through regular trips outside. Proper housebreaking involves reinforcing elimination outside and careful observation of the puppy's behavior to watch for signs the puppy needs to urinate or defecate.

NOTE: Resident may not store pet waste in their dwelling unit. Residents may not flush pet waste, especially any waste mixed with kitty litter, down the toilet, sink, bathtub or any type of drain.

- 3) Residents must clean up pet residue, such as hair, feathers, seed, water, etc. daily. The resident's dwelling unit must be always kept clean and free of odors.
 - 4) The cost of extermination for fleas, ticks and any other animal-related pests, caused by the presence of the resident's pet, will be charged to the resident. If the resident has moved out, it will be deducted from the pet deposit. The extermination will be arranged by the BHA to ensure prompt and proper rendering of the extermination service.
- H) The residents must not allow their pets to disturb or interfere with the peaceful enjoyment of the living conditions of other residents who live in the housing development/high rise. This includes but is not limited to disturbances such as consistent or excessive barking, howling, biting, scratching, chirping, or any other similar activity.

VII. Inspection of Dwelling Unit

As a condition of accepting the Pet Permit, the resident agrees that the resident's dwelling unit is available for a pet-related inspection at any time when given thirty (30) minute verbal notice if an emergency exists, or after two (2) infractions of the policy.

VIII. Damages

Residents agree to be strictly liable for all damage caused by pets where liability is imposed by state or local law.

IX. Revocation of Pet Permit

- A) The Authority may revoke a tenant's pet permit if the following conditions occur:
- 1) The pet dies
 - 2) The pet is permanently removed from housing development/high rise.
- B) The Authority may revoke a resident's pet permit after determining that at least one of the following conditions is a reasonable cause for revocation:
- 1) Resident has violated any part of the Addendum to Lease Agreement/Pet Policy/Agreement.

- 2) The pet is a danger or hazard to the health and safety of the residents, management or visitors of the housing development.
- 3) The pet has caused repeated damage to the dwelling unit, common areas, or other residents' personal property.
- 4) The pet has bitten, scratched or caused injury to another person.
- 5) The pet has defecated or urinated in the dwelling unit, common areas or outside and the residents fail to clean up after their pet.
- 6) The pet has disturbed or interfered with the peaceful enjoyment of the living conditions of the other residents who reside in the housing development/high rise. Such examples include, but are not limited to, consistent or excessive barking, howling, meowing, chirping, scratching or any other disturbing activity.
- 7) The pet's license has expired and has not been reissued, or residents failed to renew the license on an annual basis and provide proof to the Authority.
- 8) The pet's inoculation certification has expired, and the resident has failed to provide current proof of an updated inoculation.
- 9) The pet has been determined to be out of the resident's control. Such examples include, but are not limited to, a dog off its leash, a cat running loose outside of the dwelling unit or a bird not in its cage.
- 10) If by report or inspection, it is found resident is neglecting the pet.
- 11) Violations of any applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in BHA Plan.
- 12) The resident is not in good standing.

Note: Resident must return the pet permit card to the management office, if pet permit is revoked.

X. Death of Pet

In the event a resident's pet dies, the resident is responsible for arranging the burial or other means of disposal of the dead pet off the premises of the housing development/high rise.

- A) Proof of the pet's disposal, according to public health regulations, must be provided for the pet deposit to be returned to the resident.
- B) The unit will also be inspected for signs of damage or vermin prior to the pet deposit being returned to the resident.

XI. Pet Rule Violation Procedure

Resident shall comply with the following Pet Rule Violation Summary:

A. Notice of Pet Rule Violation:

- 1. Contain a brief statement of the factual basis for the determination and the pet rule or rules alleged to be violated.
- 2. State that the pet owner has ten (10) days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the pet) or to make a written request for a meeting to discuss the violation; and
- 3. State that the pet owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting may result in initiation of procedures to have the pet removed or to terminate the pet owner's tenancy, or both.

B. Pet Rule Violation Meeting:

If the pet owner makes a timely request for a meeting to discuss a pet rule violation, the Housing Authority will establish a mutually agreeable time and place for the meeting no later than fifteen (15) days from the effective date of service of the notice of pet rule violation. At the pet rule violation meeting, the pet owner and BHA shall discuss any alleged pet rule violation. If the parties are unable to resolve the problem, the BHA may inform the pet owner in writing that the pet must be removed from the premises within ten (10) days of the pet rule violation meeting.

C. Notice for Pet Removal

If the BHA determines that the pet owner has failed to correct the pet rule violation within the time provided under paragraph B of this section (including any additional time permitted by the BHA), the BHA may serve a notice to the pet owner requiring the pet owner to remove the pet.

The notice will be in writing and will:

- 1. Contain a brief statement of the factual basis for determination and the pet rule that has been violated;
- 2. State that the pet owner must remove the pet within ten (10) days of the effective date of the notice; and
- 3. State that failure to remove the pet may result in initiation of the procedures to have the pet removed or terminate the pet owner's tenancy, or both.

Bethlehem Housing Authority

**Addendum to Lease Agreement
Pet Policy/Agreement**

I have read and understand the Bethlehem Housing Authority's Addendum to Lease Agreement Pet Policy/Agreement.

I agree to abide by the conditions read and explained knowing that my violation of a pet rule may result in the removal of my pet from the premises of the BHA, or the termination of my tenancy with the BHA, or both.

IN WITNESS THEREOF, the parties have executed this Addendum to Lease Agreement Pet Policy/Agreement this

_____ day of _____, 20 _____.

Witness/BHA Authorized Representative

Signature of Head of Household

Signature of Co-Head of Household

Unit Address

I/we acknowledge that I/we have received a copy of the Addendum to Lease Agreement Pet Policy/Agreement.

Signature of Head of Household

Co-Head of Household

Tenant's File

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

Part I: Community Service Requirements: This part describes who is subject to the community service requirement and who is exempt.

Part II: PHA Implementation of Community Service: This part provides PHA policy regarding PHA implementation and program design.

Part III: Exhibits:

Exhibit 11-1: Community Service and Self-Sufficiency Policy

Exhibit 11-2: Definition of Person with Disabilities Under Social Security Acts and Section 1416 For Purpose of Exemption from Community Service

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). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered or plans to enter.

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 PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the PHA, 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).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

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

PHA Policy

The PHA will consider 20 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

-Can meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program

This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.

- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

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.

Eligible community service activities include, but are not limited to, working at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the

PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board

- Care for the children of other residents so parents may volunteer

PHAs may form their own policy regarding accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

PHA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* mean:

- 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 equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016- 06]

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirements, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

PHA Policy

The PHA 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. The policy will notify the family that self-certification forms are subject to review by the PHA.

On an annual basis, at the time of lease renewal, the PHA will notify the family in writing of the family members who are subject to the community service requirements and the family members who are exempt. If the family includes nonexempt 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 the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The PHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

PHA Policy

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

PHA Policy

At least 60 calendar days prior to lease renewal, the PHA 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 PHA 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 PHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve-month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met their service obligation.

PHA Policy

Approximately 60 calendar days prior to the end of the lease term, the PHA 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 calendar days to submit the PHA required documentation form(s).

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

PHA Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the PHA within 10 calendar days.

Within 10 calendar days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

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

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

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

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve-month lease term, it is the family's responsibility to report this change to the PHA within 10 calendar days. Any claim of exemption will be verified by the PHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 calendar days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the PHA is able to verify the exemption. The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

PHA Policy

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 PHA will provide a completed copy to the family and will keep a copy in the tenant file. The PHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7. The PHA makes the final determination whether to grant an exemption from the community service requirement. If a resident does not agree with the PHA's determination, s/he can dispute the decision through the PHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12]. If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification from a third party [24 CFR 960.607]. If the PHA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service. If the PHA accepts self-certification, it must validate a sample of certifications through third-party documentation. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated. HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

PHA Policy

Everyone who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed to the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying the number of hours contributed. Families will be required to submit the documentation to the PHA, upon request by the PHA, at least annually. If the PHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the PHA has the right to require additional third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement and families are determined to be over-income for 24 consecutive months. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the twelve-month lease term [24 CFR 960.603(b)]. PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the PHA, or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such a written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

PHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term. The family will have 10 calendar days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing. If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the PHA 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 calendar day timeframe, the PHA will terminate tenancy in accordance with the policies in **Chapter 13**, 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease.
- Right of the tenant to be represented by counsel.
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

PHA Policy

Notices of continued noncompliance will be sent at least 30 calendar 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 **Chapter 13**, 13-IV. D, Form, Delivery, and Content of the Notice. The family will have 10 calendar 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 vacated the unit before the PHA 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 providing such documentation within the required 10 calendar 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

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents with the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

PHA Policy

The PHA will notify its insurance company if residents will be performing community service at the PHA. In addition, the PHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he **can** perform community service, the PHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

PHA Program Design

The PHA may administer qualifying community service or economic self-sufficiency activities directly or may 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)].

PHA Policy

The PHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The PHA'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 PHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The PHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the PHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the PHA Plan.

The PHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When the PHA has a ROSS program, a ROSS Service Coordinator, or an FSS program, the PHA will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with PHA coordinators will satisfy community service activities and PHA coordinators will verify community service hours within individual monthly logs.

PART III: EXHIBITS

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (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 – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parents may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

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 they are unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Can meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program
- Is a member of a non-public housing over-income family.

PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

Work Activities – as it relates to an exemption from the community service requirement, *work activities* mean:

- 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 childcare services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month or may be aggregated across a year. Any blocking of hours is acceptable if long as 96 hours is completed by each annual certification of compliance.
3. Family obligation:
 - At lease execution, all adult members (18 or older) of a public housing resident family must:
 - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
 - Declare if they are exempt. If exempt, they must complete the Exemption Form and provide documentation of the exemption.
 - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term.

This documentation will include places for signatures of supervisors, instructors, or counselors, certifying the number of hours.

- If a family member is found to be noncompliant at the end of the 12-month lease term, they, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
- At annual reexamination, the family must also sign a certification certifying that they understand the community service requirements.

4. Change in exempt status:

- If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is their responsibility to report this to the PHA and provide documentation of exempt status.
- If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is their responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:
 - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
 - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to **whether** a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.
4. Noncompliance with family members:
 - At least thirty (30) calendar days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members.
 - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
 - The head of household and any other noncompliant resident enter into a written

agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or

- The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
- If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
- The family may use the PHA’s grievance 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

**EXHIBIT 11-2: DEFINITION OF A PERSON WITH DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) 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 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 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 October 1972 and received aid under such plan (based on 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.

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

PHAs are required to place families in a unit appropriate for the household's size and needs in accordance with HUD lease requirements and applicable occupancy standards (24 CFR § 966.4(c)(3)). Occupancy standards ensure that tenants are treated fairly and consistently and receive adequate housing space. One example of an occupancy standard is a limit of two people per bedroom.

However, there are several areas where PHAs have discretion to determine their own policies. When making transfers for any cause, PHAs must ensure that the unit to which a family is transferred is safe, decent, and sanitary and meets HUD's physical conditions standards.

Mandatory policies must comply with HUD and other regulations and must be included in the ACOP. Mandatory policies are those prescribed in statute and regulation that must be part of the ACOP and for which PHAs have no flexibility.

Discretionary policies are areas where the PHA has flexibility to define policies, typically within a given set of parameters. They may be unique to the PHA and based on industry best practices. These policies must still comply with Federal, State and local laws as well as HUD guidance

This chapter describes HUD regulations and PHA policies related to transfers topics:

Part I: Transfer Policy: This part describes the PHA's key components of the transfers.

- 12-I.A. Transfer List and Priorities
- 12-I.B. Emergency Transfers
- 12-I.C. PHA-Initiated Transfers
- 12-I.D. Tenant-Initiated Transfers
- 12-I.E. Transfer Requests
- 12-I.F. Processing Requests
- 12-I.G. Unit Acceptance or Refusal
- 12-I.H. Transfer Costs
- 12-I.I. Deconcentrating
- 12-I.J. Reexamination Date for Transfer
- 12-I.K. Security Deposits
- 12-I.L. Lease Execution

PART I TRANSFER POLICY

12-I.A. TRANSFER LIST AND ORDER OF PRIORITIES

Emergency transfers due to physical hazards are of the highest priority because of their immediate nature. PHAs could potentially be in violation of their responsibilities under the lease for failure to correct such hazards. If alternative accommodation is available and the PHA cannot make the necessary repairs within a reasonable amount of time, PHAs are required to provide the family with alternative housing. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted (24 CFR § 966.4(h)).

When determining unit transfer priority, PHAs will follow HUD regulations. Based on 24 CFR § 966.4(h); 24 CFR § 970.21(a); 24 CFR § 966.4(c) (3); 24 CFR § 960.257(a)(4), tenants **must** comply with the following transfers:

- Emergencies due to physical hazards.
- Demolition, disposition, revitalization, and rehabilitation.
- PHA-initiated occupancy standard transfers defined as mandatory (e.g., the family is under-housed or over-housed and there is a waiting list for that unit size).
- Other PHA-initiated transfers are defined as mandatory.

PHAs must provide transfers or alternative housing to families when it is necessary to demolish, sell, or do major revitalization or rehabilitation work at a building or site (42 U.S.C. § 1437p(a)(4)(A)(iii); 24 CFR § 970.21(a)).

HUD strongly encourages PHAs to include which transfers take priority over waiting list admissions in the ACOP. Generally, the types of transfers that take precedence over waiting list admission may include, but are not limited to:

- Emergencies.
- Reasonable accommodation.
- Demolition, disposition, revitalization, and rehabilitation.
- Occupancy standards transfer

The PHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties. Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis.

If the emergency cannot be resolved by temporary accommodation, and the family requires a permanent transfer, the family will be placed at the top of the transfer list.

TRANSFER ORDER OF PRIORITIES

Transfers are prioritized according to standards established by the lease and PHA's ACOP. Emergency transfers due to physical hazards are of the highest priority because of their immediate nature and the fact that PHAs could potentially be in violation of their responsibilities under the lease for failure to correct such hazards. PHAs establish multiple categories for transfers to make priorities clear and manageable.

Transfers will be processed in the following order:

1. Emergency Transfers

- Hazardous Maintenance Conditions.
- VAWA emergencies for tenants who are victims of domestic violence/abuse. See Chapter 2, Part III and Part V: Exhibits 2-3 Emergency Transfer Plan and 2-4 Emergency Transfer Request. **Note:** PHA shall provide tenants with either Housing Choice Voucher (HCV) if the funding is available, or a transfer within the public housing program.
- Verified Threat (verified threat of harm of criminal activity). The PHA may allow for a transfer to alleviate a threat assessed by a law enforcement professional; or protect members of the household from criminal activity at the property or in the neighborhood.

2. High-Priority Transfers

- Transfers to Make an Accessible Unit Available.
- Reasonable Accommodation (verified medical conditions)
- Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

4. Underhoused/Split Family: (by one or more bedrooms)

5. Severely Over-housed (by more than 2-bedroom)

6. Over-housed

7. Other tenant-requested transfer (e.g. Employment Location)

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

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

Transfers will take precedence over waiting list admissions.

12-I.B. EMERGENCY TRANSFERS

For the PHA to remain compliant with its lease obligations, any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

Therefore, PHAs must establish an emergency transfer policy in the event there is damage to a family's unit or building, or the site poses an immediate hazard to the life, health, and/or safety threat and the PHA cannot make the necessary repairs within 24 hours. The PHA must offer standard alternative accommodation, if available, when necessary, repairs cannot be made within a reasonable time (24 CFR § 966.4(h)).

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR § 966.4(h)].

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is eligible for an emergency transfer, as provided in HUD's regulations at 24 CFR § part 5, subpart L. PHAs are required to have a Violence Against Women Act (VAWA) Emergency Transfer Plan with guidelines for this type of emergency transfer. See Chapter 2. Part III. and Exhibits 2-3 and 2-4.

BHA will comply with HUD's regulations and BHA's VAWA Emergency Transfer Plan.

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 fire damage, a gas leak, no heat during the winter, no water, toxic contamination, serious water leaks, or to protect the family from imminent danger by criminal activity.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. To request an emergency transfer under VAWA, the resident is required to submit an emergency transfer request form (HUD-5383) to expedite the transfer process. Transfer requests under VAWA will be processed in accordance with the BHA's VAWA Emergency Transfer Plan, which is included as an exhibit in Chapter 2 – Exhibit 2-3.

Emergency Transfer Procedures

If the transfer is necessary because of maintenance conditions or other emergency conditions, and an appropriate unit is not immediately available, the PHA will provide temporary accommodation for the tenant by arranging for temporary lodging at a hotel or similar location.

If the conditions that require the transfer cannot be repaired, or the conditions cannot be repaired within 24 hours or a reasonable amount of time, the PHA will transfer the residents to the first available and appropriate unit after the temporary relocation.

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

PHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The PHA will allow a tenant to make an **internal emergency transfer** under VAWA when a safe unit is immediately available. **The PHA has adopted an Emergency Transfer Plan, which is included as an exhibit in Chapter 2 – Exhibit 2-3.**

The PHA defines immediately available as a vacant unit, that is ready for move-in within a reasonable period, not to exceed **20 days.**

If an internal transfer to a safe unit is not immediately available, the PHA will assist the residents in seeking **external emergency transfer** either within or outside the PHA's programs. **The PHA has adopted an Emergency Transfer Plan, which is included as an exhibit in Chapter 2 – Exhibit 2-3.**

12-I.C. PHA-INITIATED TRANSFER

PHAs are required to place families in a unit appropriate for the household's size and needs in accordance with applicable occupancy standards. When household composition changes and the household is now in an inappropriately sized unit, PHAs must transfer them to an appropriately sized unit (24 CFR § 966.4(c)(3) and 24 CFR § 960.257(a)(4)).

Tenants must comply with the following types of transfers:

- Emergencies due to physical hazards; Examples of such unit or building conditions may include fire damage, a gas leak, lack of water or heat, toxic contamination, or serious water leak.
- Demolition, disposition, revitalization, and rehabilitation.
- PHA-initiated occupancy standards transfer defined as mandatory in the ACOP (e.g., the family is under-housed or over-housed and there is a waiting list for that unit size); and
- Other PHA-initiated transfers are defined as mandatory.

The PHA may require that a family transfer to another unit.

Several types of transfers are required by the PHA and considered a “mandatory” move. These circumstances include:

- to maintain occupancy standards based on family composition; or
- requiring a family to transfer to make an accessible unit available to disabled family; or
- if the PHA is engaging in housing development/revitalization or rehabilitation activities that require families to relocate to an alternate PHA unit.

Transfers required by the PHA are mandatory for the tenant.

Occupancy Standards Transfers

The PHA 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 PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA 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)].

During examinations (annual reexams and family composition changes), the PHA will review tenant family compositions to determine that the tenants are in an appropriate size unit according to PHA’s occupancy standards. See Chapter 9.

The PHA will initiate occupancy standard transfers to ensure tenants are placed on the transfer waiting list, unless the PHA determines the tenant is already listed on the transfer waiting list, or the tenant requested reasonable accommodation for the extra room.

The PHA will transfer a family when the family size has changed, and the family is now too large (under-housed) or too small (over-housed) for the unit occupied.

- **Under-housed:** the number of household members exceeds the maximum number of people allowed for the unit size in which the family resides. **For example,** a household may become under-housed for a unit when a new child or an adult joins the household.
- **Over-housed:** the family no longer qualifies for the bedroom size in which they are living based on the PHA’s occupancy standards. **For example,** a household may be considered over-housed for a unit when an adult child leaves the household.

The PHA 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 PHA’s occupancy standards, when the PHA determines there is a need for the transfer.

The PHA also elected not to transfer an over-housed family to prevent vacancies.

The PHA will process split family transfers that meet the following criteria:

- The family must be overcrowded (under-housed) according to agency occupancy standards.
- The persons who would be the original and new family head of household must both be listed on the most recent lease; and
- The reason for the family split **must be** the addition of children through birth, adoption, or court awarded custody.

Depending on family circumstances and unit availability, the PHA has the discretion to transfer the household into two different units or transfer a portion of the household to a new unit while the other part of the household stays in the original unit.

Such transfers will be made in a manner that minimizes the impact on vacant units.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

When a non-accessible unit becomes available, the PHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit without accessibility amenities.

The PHA will transfer the resident to the first available and appropriate unit in a development. The PHA 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.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers, Including Rental Assistance Demonstration (RAD) Conversion Transfer

To enable the PHA to engage in major housing rehabilitation, development, demolition, or disposition activities to improve the housing stock in its portfolio, a tenant family may be required to relocate temporarily or permanently.

The PHA 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 PHA's relocation plan may or may not require transferring affected families to other available public housing units.

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.

ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions.

If the family requests a grievance hearing within the required timeframe, the PHA may not act on the transfer until the conclusion of the grievance process.

12-I.D. TENANT-INITIATED TRANSFER

PHAs are under no regulatory obligation to approve tenant-initiated transfer requests other than for reasonable accommodations (24 CFR § 100.65).

PHAs must not establish such eligibility requirements for mandatory transfers involving emergency situations (24 CFR § 966.4(h)(3)), reasonable accommodations (24 CFR § 100.65), VAWA emergencies (24 CFR § 5.2005(e)(2)), and demolition, disposition, revitalization, or rehabilitation (24 CFR § 970.21(a)).

The PHA is under no regulatory obligation to approve tenant-initiated transfer requests other than for reasonable accommodations.

However, the types of requests for transfers that the PHA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the PHA's occupancy standards, and transfers to a location closer to employment. No other types of transfer requests will be considered by the PHA. Transfer request types are described below.

The PHA will consider the following as high priority transfer requests:

- **Verified Threat/VAWA:**

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the PHA'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 Chapter 2, Part III. and Part V. Exhibit 2-3 and 2-4

- **Reasonable Accommodation:**

When a family requests a transfer as 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. See Chapter 2 IV.

● **Alleviate Medical Problems:**

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.

The PHA will consider the following as regular priority transfer requests:

● **Overcrowded:**

When a family requests a larger bedroom size unit even though the family does not meet the PHA's definition of over-crowded, if the family meets the PHA's occupancy standards for the requested size unit.

● **Employment Location:**

When the head of household or spouse is employed 25 miles or more from the public housing unit, it has no reliable transportation and public transportation is not adequate.

Eligibility for Transfer

Except where reasonable accommodation is being requested, the PHA will only consider tenant-initiated transfer requests from residents that meet the following requirements.

- Have not engaged in criminal activity that threatens health and safety of residents and staff.
- Owe no back rent or other charges.
- Have no housekeeping lease violations or history of damaging property. A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).

Exceptions to the requirements above may be made when it is to the PHA's advantage to make the transfer.

Exceptions may also be made when the PHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking in accordance with the BHA's VAWA Emergency Transfer Plan. See Chapter 2, Part III and Part V. Exhibit 2-3

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 reasonable accommodation.

12-I.E. TRANSFER REQUESTS

In this section, the PHA will define the process for tenants to request a transfer. Tenants must comply with the following transfers (24 CFR § 966.4(h); 24 CFR § 970.21(a); 24 CFR § 966.4(c)(3); 24 CFR § 960.257(a)(4)):

- Emergencies due to physical hazards.
- Demolition, disposition, revitalization, and rehabilitation.
- PHA-initiated occupancy standards transfer defined as mandatory in the ACOP (e.g., the family is under-housed or over-housed and there is a waiting list for that unit size); and
- Other PHA-initiated transfers are defined as mandatory.

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 PHA will encourage the residents to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the transfer request any time the resident indicates that accommodation is needed whether, or not a formal written request is submitted.

The PHA 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 stated below, the manager will address the issue and, until resolved, the request for transfer will be denied.

Except where reasonable accommodation is being requested, the PHA will only consider tenant-initiated transfer requests from residents that meet the following “good record” requirements:

- Have not engaged in criminal activity that threatens health and safety or residents and staff.
- Owe no back rent or other charges.
- It is on a repayment agreement and is up to date with the payments established.
- Have no housekeeping lease violations or history of damaging property. A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).

The PHA will respond within ten (10) business days of the submission of the family's request. If the PHA denies the request for transfer, the family will be informed of its grievance rights

To request an emergency transfer under VAWA, the resident is required to submit an emergency transfer request form (HUD-5383). See Chapter 2, Exhibit 2-4. Transfer requests under VAWA will be processed in accordance with the VAWA Emergency Transfer Plan, which is included as an exhibit in Chapter 2-3.

12-I.F. PROCESSING REQUESTS

The PHA must have specific policies in place to process transfer requests. PHAs must provide transfers or alternative housing to families when necessary to demolish, sell, or do major revitalization or rehabilitation work at a building or site (42 U.S.C. § 1437p(a)(4)(A)(iii); 24 CFR § 970.21(a)).

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

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list. **See 12.A. Transfer List and Order of Priorities.**

12-I.G. UNIT ACCEPTANCE OR REFUSAL

Tenants are entitled to reject transfer offers for "good cause" reasons. The reasons themselves are listed below.

Tenants will receive one offer of a transfer, **unless good cause is provided.**

Tenants must accept or refuse a transfer unit offer within three (3) business days of the date of the unit offer.

In the case of **involuntary transfers**, the Tenant shall be required to move into the dwelling unit made available by the Authority. Tenants shall be given **three (3) calendar** days on which to move following the issuing of new keys. If the Tenant refuses to move, the authority may terminate the Lease. [966.4 (c)(3)]. Involuntary transfers are subject to the Grievance Procedure, and tenants have the right to request a grievance hearing. In cases where eviction is the consequence for refusing the mandatory transfer, tenants must request the grievance hearing within 3 calendar days, and the hearing will be held promptly. If the hearing officer rules against the tenant, eviction proceedings shall proceed/continue with no further notice. [966.4 (c)(4)]

Offers will be made in person or by telephone. When the transfer is required by the PHA, the refusal of that offer without good cause may result in lease termination.

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

GOOD CASUSE FOR UNIT REFUSAL

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

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family.
- **According to Emergency Transfer Plan under the Violence Against Women Act. Form-HUD-5380. See Chapter 2, Part III. and Exhibits 2-3 and 2-4**
- 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 tenant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 3-day notice to move.
- **When the head of household or Co-head of household is employed within 25 miles or less of its current unit location and has no reliable transportation and public transportation is not adequate.**

The PHA will require documentation of good cause for unit refusals. In the case of a unit refusal for good cause, the tenant family will not be removed from the transfer list.

A refusal for good cause will not adversely affect the family's position or placement on the transfer list. The family will remain at the top of the list until the family receives an offer for which they do not have good cause to refuse.

The family has three (3) business days from the date of the unit offer to submit documentation for a good cause unit refusal.

12-I.H. COSTS OF TRANSFER

Under certain circumstances, PHAs must pay the reasonable costs of transfers that are initiated by the PHA (24 CFR § 5.2005(e)(2)). **These include:**

- Demolition, disposition, revitalization, or rehabilitation purposes.
- Conditions that pose a physical hazard (i.e., building system failure, or other emergency conditions that cannot be repaired within 24 hours).
- Reasonable accommodation for families with disabilities; and/or
- Compliance with Occupancy Standards

The PHA will bear the reasonable costs of (PHA-initiated) administrative transfers and emergency transfers.

The reasonable costs of emergency and administrative transfers include the cost of packing, moving, and unloading, with the PHA will pay. The PHA will also pay for the cost of disconnecting and reconnecting any existing tenant-paid utility services (i.e., electricity, gas, telephone, and cable). Tenants must provide paid-receipts for the cost of disconnecting and reconnecting any existing tenant-paid utility services.

For tenant-initiated transfers, the tenants will bear all costs associated with the transfer.

12-I.I. DECONCENTRATING

If subject to deconcentrating requirements, the PHA will consider its deconcentrating 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 PHA's deconcentrating goals. A deconcentrating offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentrating offer, the resident will receive one additional transfer offer.

12-I.J. ANNUAL REEXAMINATION DATE FOR TRANSFERS

The reexamination date will remain the same as their initial move-in month.

12-1.K. 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.

12-1.L. LEASE EXECUTION

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease {24 CFR 966.4.(a)(3).

A new lease is executed at the time of transfer from one PHA unit to another. The head of the household and co-head will be required to sign the public housing lease prior to transfer.

An appointment will be scheduled for the parties to execute the lease. The head of the household will be provided with a copy of the executed lease and the PHA will retain a copy in the tenant’s file.

The lease must state the composition of the household as approved by the PHA (family members and any PHA approved live-in aide).

Tenants’ files for households that include a live-in aide will contain file live-in documents signed by the live-in aide. Live-in is not a party of the lease and is not entitled to PHA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Both parties to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing. Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the lease, and for other good causes. HUD regulations also specify when termination of the lease is mandatory by the PHA.

When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation. PHA requires all tenant families to abide by their tenant obligations and lease agreements to remain in good standing for continued Public Housing assistance. PHA's failure to terminate a lease for a violation does not waive PHA's right to terminate the lease upon any household member's and/or guest's subsequent violation of the lease.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:

Part I: Termination by Tenant: This part discusses the PHA requirements for voluntary termination of the lease by the family.

Part II: Mandatory Termination by PHA: This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Other Authorized Reasons for Termination: 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. For other options the PHA has full discretion whether to consider the options as just cause to terminate if 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: Termination Notice: This part not only presents requirements for termination notice but also presents the federal requirements for disclosure of criminal records to the family prior to termination, and notification of the post office when eviction is due to criminal activity, and 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 to the property site office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

PHA Policy

If a tenant desires to terminate tenancy with the PHA, the tenant must submit to PHA a Notice of Intent to Vacate at least fifteen (15) days in advance.

When less than the fifteen (15) notice is given, the PHA will charge the tenant fifteen (15) days rent from the date the tenant turns in the unit keys, or the PHA discovers the unit is vacant.

The notice of Intent to Vacate must be signed by the head of the household, or co-head, unless the tenant is unable due to being deceased, incarcerated, placed in a medical facility, or abandoned the unit.

The PHA, at its discretion, may waive fifteen (15) days due to circumstances beyond the tenant's control such as being deceased, incarcerated, or placed in a medical facility.

BHA will attempt to have the tenant's representative who turns in the unit keys to sign the Notice of Intent to Vacate on behalf of the tenant if they wish to do so.

**PART II:
MANDATORY TERMINATION BY PHA**

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The PHA must establish policies for termination of the lease in these cases where termination is optional for the PHA.

For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated.

This part describes situations in which HUD requires the PHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form required to be signed as part of 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 PHA must 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 PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Such a 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 DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

PHA Policy

PHA will terminate the lease if a tenant fails to provide the documentation required by PHA. **However,** the PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

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. STATE REGISTERED LIFETIME SEX OFFENDER STATUS [Notice PIH 2012-28]

HUD regulations at 24 CFR § 5.856, § 960.204(a)(4), and § 982.553(a)(2) prohibit admission after June 25, 2001, if any household member is subject to a state lifetime sex offender registration requirement. This regulation reflects statutory prohibition. A household receiving assistance with such a member is receiving assistance in violation of federal law.

If PHA discovers that a household member was erroneously admitted (the household member was subject to a lifetime registration requirement at admission and was admitted after June 25, 2001), PHA will immediately pursue eviction for the household member. Regulations for hearings for the PH Program at 24 CFR § 966 Subpart B continue to apply. If PHA erroneously admitted a lifetime sex offender, PHA will give the family the opportunity to remove the ineligible member from the household. If the family is unwilling to remove that individual from the household, PHA will terminate assistance for the family.

For admissions before June 25, 2001, there is currently no HUD statutory or regulatory basis to evict or terminate the assistance of the family solely based on a household member's sex offender registration status

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

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

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]

The PHA must immediately terminate the lease following the death of the sole family member.

13-II.J. REQUIRMENTS FOR OVER-INCOME FAMILIES

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 Reexaminations, Part VI: Over-Income Families, for additional details on requirements for the notifying, tracking, and recertifying over-income families during the 24-month grace period.

13-II.K. FLEEING TO AVOID PROSECUTION

PHA shall terminate the lease if any household member has fled to avoid prosecution or custody or confinement after a conviction of a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees or violates a condition of parole imposed under federal or state law.

PART III: OTHER AUTHORIZED REASONS FOR TERMINATION

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations.

While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate such violations in all cases.

The PHA 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 PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good causes.

The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good causes, based upon the content of the PHA lease.

In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families. The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA 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 must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate such violations in all cases, therefore PHA policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in **Chapter 2, Part III.A and Part V. Form HUD-5380**

Domestic violence is defined in **Chapter 2, Part III.A.**

Dating violence is defined in **Chapter 2, Part III.A.**

Sexual assault is defined in **Chapter 2, Part III.A**

Stalking is defined in **Chapter 2, Part III.A.**

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-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.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Household means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

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

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.

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 expressed 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.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION

a) Drug Crime ON or OFF the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide 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.

PHA Policy

The PHA will terminate the lease for drug-related criminal activity engaged **on or off** the premises by any tenant, member of the tenant's household or guest, and any such activity engaged on the premises by any other person under the tenant's control.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to drug-related criminal activity.

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

In making its decision to terminate the lease, the PHA will consider alternatives and factors as described in 13-III.F and 13-III.G.

Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Refer to board approved BHA's Lease for terms and conditions of the lease.

b) Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a PHA may evict a family when the PHA 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.

PHA Policy

The PHA will terminate the lease when the PHA determines that a household member is illegally using a drug or the PHA 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 six months.

The PHA 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.

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

In making its decision to terminate the lease, the PHA will consider alternatives and factors as described in 13-III.F and 13-III.G.

Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

c) Threat to Other Tenants or PHA Employees [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide any criminal activity by a covered person that threatens health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

PHA Policy

The PHA will terminate the lease when a covered person engages in any criminal activity that threatens health, safety, or the right to peaceful enjoyment of the premises by other residents, or persons residing in the immediate vicinity; or criminal activity that may threaten the health or safety of property owners, management staff, persons performing contract administration functions or other responsibilities on behalf of the PHA (including the PHA employee or a PHA contractor, subcontractor, or agent). [24 CFR 982.533] or any violent 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]

If the tenant or a member of the tenant's household, regardless of the date of admission, engages in criminal activity (including sex offenses while living in HUD-assisted housing, the PHA shall pursue termination of tenancy. {HUD PIH Notice: 2012-28}

Immediate vicinity means within a three-block radius of the premises.

PHA will terminate the lease when any household member engages in any criminal activity that threatens the health or safety of a PHA employee.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to criminal activity.

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

In making its decision to terminate the lease, the PHA will consider alternatives and other factors as described in 13-III.F and 13-III.G. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

d) Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

The PHA will terminate the lease if the PHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens health, safety, or the peaceful enjoyment of the premises by other residents.

The pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous three months.

The PHA 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.

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

In making its decision to terminate the lease, the PHA will consider alternatives and factors as described in 13-III.F and 13-III.E and 13-III.G. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

e) Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

PHA Policy

The PHA will terminate the lease if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The PHA 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 PHA will consider **alternatives and factors as described in 13-III.F and 13-III.G**. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.D. Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are serious or repeated violations of the lease and grounds for termination.

PHA Policy

The PHA will terminate serious or repeated violations of tenant obligations under the lease. See BHA's board approved lease for serious and repeated violations.

In making its decision to terminate the lease, the PHA will consider alternatives and factors as described in 13-III.F and 13-III.G. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.E. OTHER GOOD CAUSE REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)] [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples.

PHA Policy

The PHA will terminate the lease for the following reasons:

- Discovery of facts after admission to the program that would have made the tenant ineligible.

- Discovery of materially false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income.
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the PHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size.
- Failure to transfer to an appropriate size dwelling unit when a mandatory transfer is required and upon appropriate notice by PHA that an appropriate size dwelling unit based on household composition is available.
- Failure to permit access to the unit by the PHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists
- Failure to inform the PHA of changes in household composition within ten (10 days) of the events.
- Failure to abide by the provisions of the PHA's Pet policy
- Failure to abide by the provisions of the PHA's No Smoking Policy. See Chapter 8, Part IV.
- Repayment of Tenants Debts: If a tenant owes amounts to the PHA, as a condition of continued occupancy, the PHA will require the tenant to repay the full amount or to enter into a repayment agreement, within 30 days of receiving lease termination notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements. If the tenant has breached the terms of a repayment agreement entered with the PHA it will be cause for lease termination.
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward PHA personnel or other tenants.
 - *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 with the intent to abuse or commit violence.

- 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.
- Abandonment of the unit shall be a cause for lease termination. If the family appears to have vacated the unit without giving proper notice, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.
- **Other good causes as detailed on the board approved BHA Lease.**

In making its decision to terminate the lease, the PHA will consider alternatives and factors as described in 13-III.F and 13-III.G. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.F. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

PHA Policy

The PHA will consider requiring the tenant to exclude a household member 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 PHA request.

13-III.G. FACTORS FOR CONSIDERING TERMINATION OF TENANCY

a) Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the PHA to terminate the lease if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

PHA Policy

The PHA will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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.

b) Relevant Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case to determine whether to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

PHA Policy

The PHA will consider the following relevant circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons included, but not limited to the following:

- 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 a Women Against Violence Act violence/abuse. See Chapter 2.
- The effects that the eviction will have on other family members who were not involved in the action or failure to act.
- The effect on the community of the termination, or of the PHA's failure to terminate the tenancy
- The effect of the PHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

- In case of program abuse, the dollar amount of the underpaid rent and whether a false certification was signed by the family.

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity.

As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest.

The PHA may also consider:

- Any statements made by witnesses or the participant not included in the police report
- Whether criminal charges were filed.
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.
- In case of program abuse, the dollar amount of the underpaid rent and whether a false certification was signed by the family.

c) Consideration of Rehabilitation – Alcohol Abuse and Illegal Drug Use/Abuse
[24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes PHAs 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.

PHA Policy

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 PHA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose, the PHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

d) Terminating Tenancy of a Domestic Violence Offender

PHA Policy

See Chapter 2, Part III. VAWA, and Part V. Exhibits

e) Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as reasonable accommodation. The PHA will only consider accommodation that can reasonably be expected to address the behavior that is the basis of the proposed lease termination.

See Chapter 2, Part IV. for a discussion about reasonable accommodation.

f) Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

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

PHA Policy

See Chapter 2, Part I

13-III.H. MISSED APPOINTMENTS AND DEADLINES

It is a tenant obligation to supply information, documentation, and certification as needed for PHA to fulfill its responsibilities. PHA schedules appointments and sets deadlines to obtain required information. The tenant's obligations also require that the family allow PHA to inspect the unit.

Appointments are made for this purpose. A tenant who fails to keep an appointment, or to supply information required by a deadline without notifying the PHA, may be sent a Notice of Termination of Lease for failure to provide required information, or for failure to allow the PHA to inspect the unit.

PHA Policy

The following are events and circumstances for which this applies:

- Verification Procedures.
- Housing Quality Standards and Inspections.
- Recertifications.
- Appeals, and
- Other appointments to discuss complaints, suspected lease violations, or related public housing issues.

The tenant will be given two (2) opportunities before being issued a Notice of Termination for breach of a tenant obligation.

Tenants are allowed to make two (2) missed recertification appointments prior to the issuance of a notice of termination. After issuance of the termination notice, if the tenant offers to correct the breach within the time allowed to request a hearing, the notice will be rescinded if the tenant offers to cure and the tenant does not have a history of non-compliance.

Termination is subject to a request for reasonable accommodation. Where a tenant notified PHA on a timely basis of the need to reschedule an appointment, the appointment is not considered a missed appointment or deadline.

Acceptable reasons for missing appointments or failing to provide information by deadlines include but are outlined below. PHA will require 3rd party verification to confirm the events below:

- Medical emergency
- Incarceration; and
- Family emergency

**PART IV:
LEASE TERMINATION NOTICE**

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

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

PHA Policy

The PHA will conduct criminal records checks when it has come to the attention of the PHA, 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 may also include sex offender registration information. To obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The PHA 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 PHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protection must be afforded by the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

PHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the PHA 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 PHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-calendar day period, the PHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]

a) Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)].

PHA Policy

Notice

Notice shall be the PHA standard Termination Notice according to lease violations stated in this chapter.

Content of Notice

Notices of lease termination shall be in writing. The notice will state:

- The specific grounds for termination.
- The date the termination will take place.
- The tenant's right to reply to the termination notice.
- The tenant's right to examine PHA documents directly relevant to the termination or eviction; and
- The tenant's right to request a hearing in accordance with PHA Grievance Procedures (if applicable).
- The notice will include the following language for reasonable accommodation and VAWA:

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

“If you or anyone in your family is a victim of domestic violence/abuse, please contact the BHA’s Coordinator for Violence Against Women Act.” 610-865-8386 or 8352.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, or stalking, of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and Chapter 2, Part III and Part V

Delivery of Termination Notice

PHA will attempt to deliver the Lease Termination Notice as follows:

- Directly to the tenant or an adult member of the family.
- If an adult household member is not home, the notice will be posted on the door of the tenant.
- If the PHA is aware that the tenant is incarcerated, the PHA will serve the notice at the correction facility or send it certified mail as a last resort.

The tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and (if a hearing was timely requested by the tenant) the grievance process has been completed.

Lease terminations for certain actions are not eligible for the grievance procedure, specifically: any criminal activity that threatens health, safety, or right to peaceful enjoyment of the premises of other tenants or PHA employees; and any drug-related criminal activity.

The Lease Termination Notice in these instances 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 PHA for eviction of the family, 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 health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of PHA, or for a drug-related criminal activity on or off the premises.

All Lease Termination Notices will include a statement of the protection against termination provided by VAWA for victims of domestic violence, dating violence, stalking or sexual assault.

Any family member or affiliated individual who claims that the cause of termination involves:

- (a) criminal activity against household members or others or

(b) incidents of domestic violence, dating violence, stalking, or sexual assault of which a household member or affiliated individual is the victim will be given the opportunity to provide documentation in accordance with the policies in this ACOP. For VAWA, see Chapter 2, Part III and Part V.

As noted above, Lease Termination Notices, the PHA shall include a statement describing the right of any household member with a disability to meet with the manager and determine whether Reasonable Accommodation could eliminate the need for the lease termination.

b) Timing of the Notice

[24 CFR 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29], amendment published at 89 FR 101303, December 13, 2024

The PHA must give written notice of lease termination of:

- During the period for which HUD determines that a **national emergency** requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 calendar days from the date the tenant receives the notice in case of failure to pay rent.
- When such an emergency is not present, 30 calendar days in the case of failure to pay rent
- A reasonable period considering the seriousness of the situation (but not to exceed 30 calendar days)

If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises are threatened

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

PHA Policy

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent (during nationwide emergency orders) or 30 calendar days from the date the tenant receives the notice for nonpayment of rent (**upon expiration of nationwide emergency orders**).

For all other lease terminations, the PHA will give 30 days' written notice of lease termination.

Any Notice to Vacate or Notice to Quit that is required by state or local law will **be combined** with the Notice of Lease Termination under this section.

c) 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 PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in **Chapter 11**

PHA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance with such agreement at the next lease renewal, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Community Service policy, in Chapter 11 and will also serve as the notice of termination of tenancy.

d) Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information.

In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply:

- The family's eligibility for proration of assistance,
- The criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and
- The family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by initiating court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

PHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the PHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the PHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The PHA may not proceed with an eviction action if the PHA has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must 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.

PHA Policy

A written record of every termination and/or eviction will be maintained by the PHA 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 reasons 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 residents
- Summaries of any conference held with the residents including dates, names of conference participants, and conclusions

13-IV.H. REINSTATEMENT AFTER TERMINATION – FOR WRONGFUL TERMINATION

PHA may reinstate a family who was terminated and who did not request a grievance within the required time frame if the termination is confirmed to be a wrongful termination.

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA 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 Regarding Noncitizens: This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicants 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.

Part IV: Exhibit: This chapter is not the PHA'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. A sample grievance procedure is provided. However, please note that the procedure provided is only a sample and is designed to match up with the default policies in the model ACOP. As such, the PHA would need to modify accordingly should any alternative policy decisions be adopted.

Exhibit 14-1: Grievance Procedure Sample

**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 informal hearing. HUD regulations do not provide a structure or requirements regarding informal hearings for applicants (except regarding citizenship status, to be covered in Part II). This part discusses the PHA 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 under the PHA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants with the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

PHA Policy

The PHA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain informal hearing.

PHA Policy

As applicable, the PHA's notice of denial will include information about required or requested remote informal hearings.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in

accordance with the Violence against Women Act. These HUD notices must accompany the written notification of the denial of eligibility determination.

PHA Policy

See Chapter 2, Part III and Part V.

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

PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the calendar day, no later than 10 calendar days from the date of the PHA's notification of denial of admission.

The PHA will schedule and send written notice of the informal hearing within 10 calendar days of the family's request.

If the PHA informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in remote informal hearing.

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

If the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Conducting an Informal Hearing [PH Occ GB, p. 58]

PHA Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided with an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the informal hearing will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether admission should be granted or denied.

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request of the applicant as reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Remote Informal Hearings [Notice PIH 2020-32]

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be following HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conference call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least ten calendar days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail or via email. The PHA will scan and email copies of these documents to the PHA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant receives all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Decision [PH Occ GB, p. 58]

PHA Policy

The PHA will notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the PHA 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 PHA 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 PHA 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 PHA will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 calendar days of the informal hearing, to the applicant and their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand, and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodation to participate in the informal hearing process and the PHA must consider such accommodation. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

**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 based on 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 PHA 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 PHA 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 must 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 PHA 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 PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 calendar days from the date of the notification to request an appeal of the USCIS results. The request for an appeal must be made by the family in writing directly to USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 calendar days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 calendar days of sending the request to USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 10 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 calendar days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below:

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA

pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

PHA Policy

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request the discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided with 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 with the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obliged to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

PHA Policy

The PHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 10 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results

- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA 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 are 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]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, state or federal law.

The PHA grievance procedure must be included in, or incorporated by reference in, the lease.

PHA Policy

The PHA grievance procedure will be incorporated by reference in the tenant lease.

The PHA must provide at least 30 calendar days' notice to tenants and resident organizations, setting forth proposed changes in the PHA grievance procedure and provide an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any changes to the grievance procedure by the PHA.

PHA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the PHA of any proposed changes in the PHA grievance procedure, to submit written comments to the PHA.

The PHA must 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 regarding 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
- **Expedited Grievance** – a procedure established by the PHA for any grievance or termination that involves:

- Any criminal activity that threatens health, safety, or the right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
- Any drug-related criminal activity on or off the premises
- **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** – an impartial person or selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **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]

Grievances could potentially address most aspects of a PHA’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.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance 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; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

PHA Policy

The PHA is in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving criminal activity that threatens health, safety, or the right to peaceful enjoyment of the premises of other residents or employees of the PHA, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of housing development in which the complainant resides so that the grievance may be discussed informally and settled without hearing.

PHA Policy

The PHA will accept requests for an informal settlement of a grievance either orally or in writing (including emailed requests), to the PHA office within 10 calendar days of the event. Within 5 business days of receipt of the request the PHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such a meeting by writing to the tenant. The informal settlement may be conducted remotely as required by the PHA or may be conducted remotely upon consideration of the request of the tenant. See 14-III.G for information on how and under what circumstances remote informal settlements may be conducted.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as 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.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time, and one copy will be given to the tenant, and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of the 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.

PHA Policy

The PHA 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 PHA's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

PHA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to the PHA within 10 calendar days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient for 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.

PHA Policy

Within 10 calendar 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.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in remote grievance hearing.
- That the PHA will provide technical assistance prior to and during the hearing, if needed; and
- If the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The PHA may wish to permit the tenant to request rescheduling a hearing for good cause.

PHA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as 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.

Expedited Grievance Procedure [24 CFR 966.52(a)]

The PHA may establish an expedited grievance procedure for any grievance 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 by other residents or employees of the PHA.
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on grievance.

PHA Policy

The PHA will not offer expedited grievance procedures.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. The PHA must describe their policies for selection of a hearing officer in their lease.

PHA Policy

PHA grievance hearings will be conducted by a single hearing officer and not a panel.

The PHA will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

The PHA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodation.

PHAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-calendar day comment period [24 CFR 966.4].

14-III.G. REMOTE HEARINGS [Notice PIH 2020-32]

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct a hearing remotely upon request as reasonable accommodation for a person with a disability, if a tenant does not have childcare or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote hearing on a case-by-case basis.

Discovery of Documents Before the Remote Hearing

PHA Policy

If the hearing is conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing. The PHA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the hearing is to be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail or via email. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day they are received.

Documents will be shared electronically whenever possible.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility,

accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote grievance hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote grievance hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote grievance hearings.

Conducting Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be following HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conference call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least 10 calendar days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers

using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family receives all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to grievance hearing is secure, including protecting personal identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be able to attend a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

PHA Policy

The tenant will be allowed to copy any documents related to the hearing at no cost to the family. There will be no charge for documents emailed by the PHA. The family must request the discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

PHA Policy

Hearings may be attended by the following applicable persons:

- The PHA representatives and any witnesses for the PHA
- The tenant and any witnesses for the tenant
- The tenant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability
- The right to have a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may decide to postpone the hearing for no more than five business days or may make a determination that the party has waived their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided, that a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no faults of their own.

PHA Policy

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 PHA 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 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(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence:

1. **Oral evidence:** the testimony of witnesses
2. **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
3. **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.

4. **Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the PHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine PHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the PHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

PHA Policy

If the complainant would like the PHA to record the proceedings by audiotape, the request must be made to the PHA by 12:00 p.m. on the business day prior to the hearing. The PHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodation of Persons with Disabilities [24 CFR 966.56(f)]

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g))

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

PHA Policy

See Chapter 2.

14-III.I. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must make a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determination relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of

the decision must be sent to the complainant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, their representative, or the hearing officer [24 CFR 966.57(a)].

PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with PHA policy.
- **PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not a conclusion, and it is not an argument. The hearing officer will evaluate the facts to determine if they support the PHA'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 PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 calendar days after the hearing.

The report will contain the following information:

Hearing information:

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the PHA representatives
- 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 for 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 their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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 make 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 PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA 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 PHA to restore the family's status.

Procedures for Further Hearing

PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene later, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- Grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

PHA Policy

When the PHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 calendar 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 calendar days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

**PART IV
EXHIBIT**

EXHIBIT 14-1: GRIEVANCE PROCEDURE **SAMPLE**

The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made further policy decisions after NMA has provided you with this chapter, you would need Definitions applicable to the grievance procedure [24 CFR 966.53].

I. Introduction

Public housing tenants have the right to request a grievance hearing for any PHA action or failure to act in accordance with the tenant's lease.

Grievance procedures do not apply in the following circumstances:

- A. Disputes between tenants not involving the PHA or class grievances [24 CFR 966.51(b)].
- B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].
- C. When the PHA is in a HUD-declared due process state, HUD allows the PHA to exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA.
 - ii. Any violent or drug-related criminal activity on or off such premises; or
 - iii. Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].

II. Definitions [24 CFR 966.53]

- A. **Grievance:** Any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.
- B. **Complainant:** Any tenant (as defined below) whose grievance is presented to the PHA or at the project management office in accordance with the requirements presented in this procedure.
- C. **Elements of due process:** An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction

- ii. Right of the tenant to be represented by counsel
 - iii. Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have
 - iv. A decision on the merits of the case
- D. **Hearing officer:** An impartial person or persons selected by the PHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.
- E. **Tenant:** The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or if no such person now resides in the unit, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.
- F. **Resident organization:** An organization of residents, which also may include a resident management corporation.

III. **This grievance procedure [24 CFR 966.51]**

This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide at least 30 calendar days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

IV. **Informal settlement of a grievance [24 CFR 966.54]**

Any grievance request must be personally presented, either orally or in writing (including email), to the PHA's central office or the management office of the development in which the tenant resides within 10 calendar days after the violation.

As soon as the grievance request is received, it will be reviewed by the PHA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to grievance, the PHA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(l)(3)(i)(C)(v)(B)].

Otherwise, within 10 calendar days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without hearing. At the informal settlement, the tenant will present their grievance.

Within 10 calendar days following the informal settlement, the PHA will prepare and mail or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant's file.

V. **Requesting a formal grievance hearing**

If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than 5 business days after receiving the summary of the informal settlement.

The written request must specify the reasons for the request and the action or relief sought from the PHA.

VI. Selecting the hearing officer

A grievance hearing will be conducted by an impartial person appointed by the PHA as described below:

- A. The hearing officer will be appointed directly by the executive director.
- B. The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 066.54(e)].
- C. The PHA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)].

VII. Scheduling hearings [24 CFR 966.56(a)]

When a tenant submits a timely request for a grievance hearing, the PHA will immediately appoint an impartial hearing officer.

Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email.

Within 10 calendar days of receiving the written request, the hearing will be scheduled. The tenant, PHA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing is held remotely, the PHA will also include information on the remote hearing process.

The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if needed as reasonable accommodation for a person with disabilities. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least one day prior to the hearing date.

Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section VI. The tenant will be offered a fair hearing, which will include:

- A. The opportunity to examine any PHA documents before the hearing, including records and regulations that are directly relevant to the hearing.

The tenant must request to view and copy PHA documents relevant to the hearing by noon of the day before the hearing. The tenant is allowed to copy any such document at no cost to the tenant.

If the PHA does not make the document available for examination upon request by the tenant, the PHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.
- C. The right to a private hearing unless the tenant requests a public hearing.
- D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

The hearing decision will be based on the preponderance of the evidence, defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The tenant or the PHA may arrange in advance for a transcript or recording of the hearing at the expense of the party making the arrangement.

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The PHA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge. LEP requirements can be found at:

https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

VIII. Remote Hearings

The PHA has the authority to require that hearings be conducted remotely in certain situations.

IX. Failure to appear at the hearing

If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the PHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a

waiver of any right the tenant may have to contest the PHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

X. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the PHA.

The PHA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will decide based on the evidence presented.

The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the tenant's lease or PHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or
- B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse: This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties: This part describes the corrective measures the PHA must and may take when errors or program abuse are found.

**PART I:
PREVENTING, DETECTING, AND
INVESTIGATING ERRORS AND PROGRAM ABUSE**

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

PHA Policy

The PHA anticipates that many families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA’s program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will provide each applicant and resident with a copy of “**Is Fraud Worth It?**” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and resident with a copy of “**What You Should Know about EIV,**” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The PHA 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 PHA will routinely provide resident counseling as part of every reexamination interview to clarify any confusion pertaining to program rules and requirements.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family member.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the PHA staff will explain any changes in HUD regulations or PHA policy that affect residents.

For the 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 action that constitutes 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

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

PHA Policy

The PHA will employ a variety of methods to detect errors and program abuse, including:

The PHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the PHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditure to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify +potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy

The PHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. For the PHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

Analysis and Findings

PHA Policy

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that shows that the fact sought to be proved is more probable than not.

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

For each investigation the PHA will determine:

- (1) whether an error or program abuse has occurred,
- (2) whether any amount of money is owed by the PHA, and
- (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy

In the case of family-caused errors or program abuse, the PHA 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

PHA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 calendar 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 PHA 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 PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

PHA Policy

Rent Increases

The PHA will provide the tenants with thirty (30) days' advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

Rent Decreases

Rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease may be applied retroactively. The tenant will be reimbursed for any overpayment.

Reimbursement

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the 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 PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA

PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16.

If the family fails to repay the amount owed, the PHA will terminate the family's lease in accordance with the policies in Chapter 13.

Rent Increases:

In instances where the tenant failed to report income in a timely manner, the PHAs will implement rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. No 30 days' notice is required.

PHA Reimbursement to Family

PHA Policy

The PHA will not reimburse the family for any overpayment of rent when the overpayment is clearly caused by the family.

The PHA will reimburse the head of household for any overpayment when the error is caused by the PHA.

The PHA will distribute a check to the head of household, unless the family has a balance due to the PHA, or the head of household requests credit to the family's account.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

PHA Policy

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to a third-party as an inducement for the third-party to make false or misleading statements to the PHA on the family's behalf.
- Use of a false name or the use of falsified, forged, or altered documents.

- Intentional misreporting of family information or circumstances (e.g., misreporting of income, assets, deductions, or family composition)
 - Omitted facts that were obviously known by a family member (e.g., not reporting income, assets, or family composition accurately)
 - Admission of program abuse by an adult family member
- The PHA may determine other actions to be program abused 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 PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member does not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family to state or federal criminal prosecution as described in section 15-II.D.

15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP.

This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program.

Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include, but not limited to:

- (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and
- (2) errors in calculation.
- (3) failure to process timely corrections in a timely manner within 45 days of being aware of errors.

Repayment for the PHA

The family is not required to repay the rent underpayment if the error or program abuse is caused by PHA staff.

PHA Reimbursement to Family

PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements because 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 PHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit because of insider knowledge of PHA activities, policies, or practices
- Misappropriate 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
- Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment
- Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the PHA knew or should have known such harassment was occurring
- Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment.

15-II.D. DE MINIMIS ERRORS

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs will not be issued as a finding by HUD for de minimis errors in income calculation.

As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination.

Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

PHAs must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged because of the PHA's de minimis error in income determination.

PHA Policy

As PHA becomes aware of the existence of an income calculation error, PHA will correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs will take corrective action to credit or repay a family if the family is overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

The PHA will repay or credit a family the amount they were overcharged because of the PHA's de minimis error in income determination.

If the amount is due to the family, the PHA will distribute a check to the head of household, unless there is a balance due on the tenant's account or head of household requests a credit on their account since most of the time the head of household requests for the PHA to credit their account.

15-II.E. CRIMINAL PROSECUTION

PHA Policy

When the PHA determines that program abuse by a family or PHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution.

When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)]. **See Chapter 16, Program Administration, Part III: Repayment of Family Debts**

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances: This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Establishing Flat Rents: This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts: This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences of failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS): This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record Keeping: All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level: This part describes the PHA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

**PART I:
UTILITY ALLOWANCES
[24 CFR 965 Subpart E]**

16-I.A. ESTABLISHMENT OF UTILITY ALLOWANCES BY PHAS – [965.502]

(a) PHAs shall establish allowances for PHA-furnished utilities for all check metered utilities and allowances for resident-purchased utilities for all utilities purchased directly by residents from the utilities suppliers.

(b) The PHA shall maintain a record that documents the basis on which allowances and scheduled surcharges, and revisions thereof, are established and revised. Such records shall be available for inspection by residents.

(c) The PHA shall give notice to all residents of proposed allowances, scheduled surcharges, and revisions thereof. Such notice shall be given, in the manner provided in the lease or homebuyer agreement, not less than **60 days** before the proposed effective date of the allowances or scheduled surcharges or revisions; shall describe with reasonable particularity the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances or scheduled surcharges; shall notify residents of the place where the PHA's record maintained in accordance with paragraph (b) of this section is available for inspection; and shall 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 scheduled surcharges or revisions. Such written comments shall be retained by the PHA and shall be available for inspection by residents.

(d) Schedules of allowances and scheduled surcharges shall not be subject to approval by HUD before becoming effective but will be reviewed during audits or reviews of PHA operations.

(e) The PHA's determinations of allowances, scheduled surcharges, and revisions thereof shall be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

16-I.B. CATEGORIES FOR ESTABLISHMENT OF ALLOWANCES [965.503]

Separate allowances shall be established for each utility and for each category of dwelling units determined by the PHA to be reasonably comparable as to factors affecting utility usage.

16-I.C. STANDARDS FOR ALLOWANCES FOR UTILITIES [965.505]

(a) The objective of a PHA in designing methods of establishing utility allowances for each dwelling unit category and unit size shall be 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.

(b) Allowances for both PHA-furnished and resident-purchased utilities shall be designed to include such reasonable consumption for major equipment or for utility functions furnished by the PHA for all residents (e.g., heating furnace, hot water heater), for essential equipment whether or not furnished by the PHA (e.g., range and refrigerator), and for minor items of equipment (such as toasters and radios) furnished by residents.

(c) The complexity and elaborateness of the methods chosen by the PHA, in its discretion, to achieve the foregoing objective will depend upon the nature of the housing stock, data available to the PHA and the extent of the administrative resources reasonably available to the PHA to be devoted to the collection of such data, the formulation of methods of calculation, and actual calculation and monitoring of the allowances.

(d) In establishing allowances, the PHA shall consider relevant factors affecting consumption requirements, including:

(1) The equipment and functions intended to be covered by the allowance for which the utility will be used. For instance, natural gas may be used for cooking, heating domestic water, or space heating, or any combination of the three.

(2) The climatic location of the housing projects.

(3) The size of the dwelling units and the number of occupants per dwelling unit.

(4) Type of construction and design of the housing project.

(5) The energy efficiency of PHA-supplied appliances and equipment.

(6) The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total resident payment.

(7) The physical condition, including insulation and weatherization, of the housing project.

(8) Temperature levels intended to be maintained in the unit during the day and at night, and in cold and warm weather; and

(9) Temperature of domestic hot water.

(e) If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning, the PHA shall not include air conditioning in the utility allowances. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with Sec.

965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.

PHA Policy

The PHA does not supply or install air-conditioning.

16-I.D. SURCHARGES FOR PHA-FURNISHED UTILITIES [965.506]

(a) For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA shall establish surcharges for utility consumption more than the allowances. Surcharges may be computed on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated blocks of excess consumption and shall be based on the PHA's average utility rate. The basis for calculating such surcharges shall be described in the PHA's schedule of allowances. Changes in the dollar amounts of surcharges based directly on changes in the PHA's average utility rate shall not be subject to the advance notice requirements of this section.

(b) For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA shall establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. Such surcharge schedules shall state the resident- owned equipment (or functions of PHA-furnished equipment) for which surcharges shall be made and the amounts of such charges, which shall be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment

PHA Policy

The PHA does have PHA-furnished utilities.

16-I.E. REVIEWS AND REVISION OF ALLOWANCES [965.507]

(a) Annual review. The PHA shall review at least annually the basis on which utility allowances have been established and, if reasonably required to continue adherence to the standards stated in Sec. 965.505, shall establish revised allowances. The review shall include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable consumption requirements and changes in utility rates.

(b) Revision because of rate changes. The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be 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 rates on which such allowances were based. Adjustments to resident payments because of such changes shall be retroactive to the first day of the month following the month in which the last rate change considered in such a revision

became effective. Such rate changes shall not be subject to the 60-day notice requirement of Sec. 965.502(c).

PHA Policy

The PHA shall review its schedule of utility allowances each year and shall revise its allowances if there has been a change of 10 percent or more in the utility rates since the last time the utility allowance scheduled was revised. The PHA shall maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule. Because rate changes are not subject to the 60-day notice requirement of Section 965.502(c), the PHA shall give the tenants thirty (30) days' written notice of revised allowances, along with resultant changes in tenants' rent or utility reimbursement.

16-I.F. INDIVIDUAL RELIEF [965.508]

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the PHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as the PHA shall deem appropriate. The PHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time the PHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of the PHA representative with whom initial contact may be made by residents), and the PHA's criteria for granting such relief, shall be included in each notice to residents given in accordance with Sec. 965.502(c) and in the information given to new residents upon admission.

PHA Policy

Relief from payment of utility supplier billing more than the allowances for tenant-paid utilities, may be granted upon a tenant's request as reasonable accommodation for households with a person who has disabilities, to cover the cost of higher utility consumption necessitated by the disability-related medical equipment. See Chapter 2, Part IV: Reasonable Accommodation

16-I.G. RESIDENT-PURCHASED UTILITIES

According to the Public Housing Occupancy Guidebook dated June 1, 2020, when a building has resident-purchased utilities, the local utility company owns, operates, maintains, and reads the individual utility meters for each individual dwelling unit. Tenants are required to establish individual accounts in their name with the local utility provider(s) and pay the utility provider(s) directly for their consumption.¹⁰ In the scenario outlined below, the PHA provides a utility allowance to tenants to cover reasonable utility expenditures for the unit and the resident pays the utility company directly each time a utility bill is issued.¹¹ If the utility bill exceeds the allowance, the tenant must make up the difference. If the bill is less than the allowance, the tenant will benefit from their consumption efforts. Utility allowances aim to ensure that it will

cost tenants the same amount of money to rent a unit independent of whether they are responsible for paying a utility bill.

In the example below, the resident in Property A does not pay a utility bill whereas the resident in Property B is responsible for paying the electric bill.

	Property A	Property B
Tenant Utility Responsibility	None	Electricity
Total Tenant Payment (TTP)	\$400	\$400
Utility Allowance	N/A	\$50
Tenant Rent	\$400	\$350
Utility Bill	N/A	\$50
Total Cost to Tenant	\$400	\$400

- All leases must identify the utilities that the tenant is responsible for paying. Residents that fail to pay utility bills identified in their lease may have their tenancy terminated.¹²
- Residents are responsible for the entire bill, even if the bill exceeds the allowance.
- PHAs must pay the utility bill when a unit is vacant.¹³
- A PHA is required to revise utility allowances when there is a rate or cost change of at least ten (10) percent since the last adjustment. Required adjustments are retroactive to the first day of the month following the effective rate change and are not subject to the 60-day tenant notification requirement.¹⁴
- When a resident's TTP is less than the utility allowance, the PHA will pay for the difference between the TTP and the utility allowance. This is referred to as a utility reimbursement. This amount may be paid either to the resident or to the utility company directly. If the PHA pays the utility company directly, the PHA must notify the residents of the amount paid.¹⁵

PHA Policy

The PHA shall identify the utility that the tenant is responsible for on the lease and shall reimburse the tenant for the difference between the TTP and the utility allowance, which shall be referred to as a utility allowance reimbursement.

Lease-ups and Transfer Tenants:

The PHA shall provide head of households with a phone number for each utility provider at the time of lease signing to assist the tenant in setting up an account. PHA shall consider if utilities can be obtained in an eligible tenant's name before admitting or transferring a household to a unit with tenant-paid utilities. If the utilities cannot be obtained in the Head or Co-Head's name, then the PHA shall inform the head of household to contact the local utility company to work out a plan on how to obtain the utility in their name. No vacant unit shall be leased by any head of households, who cannot obtain the utilities in their name.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

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. Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the PHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and prorate of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2022-33]

Establishing Flat Rents

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

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

The 2015 Appropriations Act permits PHAs to apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate, through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit, and HUD agrees with the PHA's analysis.

The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, PHAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

PHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the PHA will reduce flat rents to 80 percent of the current FMR/SAFMR.

Applying for Flat Rents

PHA Policy

The PHA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

Posting of Flat Rents

PHA Policy

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable development offices and high-rises.

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

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

PART III: REPAYMENT OF FAMILY DEBTS

16-III.A. OVERVIEW

According to HUD PIH Notice dated October 26, 2018, Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA must terminate the family's tenancy or assistance, or both. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.

All repayment agreements must be in writing - dated, signed by both the tenant and the PHA, and include the total retroactive rental amount owed, and amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

- a. Reference to the paragraphs in the Public Housing lease or Section 8 information packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- b. The monthly retroactive rent repayment is in addition to the family's regular rent contribution and is payable to the PHA.
- c. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- d. Late and missed payments constitute a default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHAs are required to determine retroactive rent amount as far back as the PHA has documentation of family unreported income.

For example, if the PHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, the PHA is only able to determine retroactive rent for the three years for which documentation is available.

The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income.

However, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures.

Example:

- Family's monthly adjusted income is \$1,230.
- Family's monthly rent payment is \$369 (30% of the family's monthly adjusted income).
- 40% of the family's monthly adjusted income is \$492.
- The monthly payment for the repayment agreement should not exceed \$123 per month (\$369 monthly rent + \$123 repayment = \$492, 40% of the family's monthly adjusted income.)

Repayment Time Period: The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Example:

- The tenant agrees to repay \$1,000, by making a monthly payment of \$25 for 40 months.

Repayment Options: Tenants have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above.

Example:

- A tenant may owe \$1,000, make a lump sum payment of \$300 and enter into a repayment agreement for the remaining balance of \$700.

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

16-III.B. PHA REPAYMENT POLICY

Family Debts to the PHA

PHA Policy

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 PHA to use incorrect information provided by a third party. PHA will not reimburse the family for any overpayment of rent when the family causes the overpayment.

Tenants shall be required to- reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent

underpayment is commonly referred to as retroactive rent, as known as “rent back-charge.”

If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing repayment agreement, the PHA shall terminate the family’s tenancy. As required by HUD, the PHA shall not authorize amnesty or debt forgiveness programs.

The PHA will enter into repayment agreements in accordance with the policies contained in this part to recover overpayments, along with maintenance charges.

Maintenance Charges

The PHA has established a \$2,000 threshold for maintenance charges due to tenant’s negligence. If the tenant is unable to repay a maintenance charge within thirty (30) days, the PHA will offer a repayment agreement if the amount does not exceed \$2,000 and with the term not to exceed twenty-four (24) months.

Retroactive Rent Charge

According to HUD, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures. The PHA have opted to establish a threshold of \$3,000 for retroactive rent charge due to tenant’s misrepresentation of family composition and/or income. If the tenant is unable to repay a retroactive rent within thirty (30) days, the PHA will offer a repayment agreement if the amount does not exceed \$3,000.

The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed shall be affordable and not exceed 40 percent of the family’s monthly adjusted income. If the tenant wishes to pay more than the amount set, the PHA will agree to the tenant’s request.

Repayment Options for Retroactive Rent Balance:

The tenants shall have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above.

Any retroactive rent charge of more than \$3,000, the PHA shall move to terminate the lease, unless the family pays the full debt within thirty (30) days, or bring the debt to \$3,000, or less.

Zero Income Tenant

If the tenant reports zero income status, the tenant will still be required to pay retroactive rent owed to the PHA. In this case, the PHA shall require the tenant to pay a minimum monthly amount of \$50.00. If the tenant fails to pay, the PHA shall terminate the tenant’s tenancy. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs. Tenants are required to- reimburse the PHA if they are charged less rent than

required by HUD's rent formula due to the tenant's underreporting or failure to report income.

Refusal to Enter into An Agreement

PHA Policy

If a tenant refuses to repay the debt, does not enter into a repayment agreement according to the PHA set policy, or breaches a repayment agreement, the PHA will terminate the tenant's tenancy.

When a tenant refuses to repay debt owed to the PHA, in addition to termination of tenancy, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines

Down Payment Requirement

PHA Policy

The PHA will no longer require a down payment of one-third (1/3) of the total amount owed.

Payment Thresholds

Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

PHA Policy

To establish a repayment agreement, the PHA have opted to establish a \$3,000 threshold for retroactive rent owed to the PHA, and a \$2,000 threshold for maintenance charges.

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

PHA Policy

Any repayment agreement between the PHA and tenant will be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

Repayment agreements will include the total amount owed, any lump sum payment made at time of execution, and the monthly repayment amount, and a brief explanation of the action that led to the debt owed.

Under no circumstances will a repayment agreement be used to change or alter a tenant composition.

The remaining balance will be paid in monthly installments. However, a tenant may wish to make an initial lump sum payment to reduce or eliminate the monthly repayment amount.

PHA reserves the right to structure repayment agreements requiring the tenant to make higher or lower initial and/or monthly payments.

At a minimum, repayment agreements will contain the following provisions:

- A statement clarifying that each month the tenant not only must pay PHA the monthly payment specified in the agreement but also must pay the tenant's monthly share of rent to PHA.
- A statement that late or missed payments constitute a default of the repayment agreement and may result in termination of the lease.
- **Repayment term:** For maintenance charges up to a maximum term of twenty-four (24) months and for retroactive rent until the balance is paid-in-full.

All payments are due by the 15th business day of each month.

Late or Missed Payments

PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the late or missed payment has not been given by the PHA, the PHA will send the tenant a default notice giving the tenant 15 calendar days to make the late or missed payment.

If the payment is not received by the due date of the default notice, it will be considered a breach of the agreement and the PHA will terminate the tenancy in accordance with the policies in Chapter 13.

Consequences of Default of a Repayment Agreement

If a tenant breaches a repayment agreement, PHA will terminate the tenant's tenancy in accordance with PHA's termination policies. PHA may also pursue other modes of collection.

No Offer of Repayment Agreement

PHA Policy

The PHA will not enter into a repayment agreement with a tenant if there is already a repayment agreement in place with the tenant unless the first agreement has been paid-in-full.

The PHA will not enter into a repayment agreement for any amount owed that exceeds the PHA thresholds noted above.

**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.

<p>Indicator 1: Physical condition of the PHA's projects Maximum Score: 40</p> <ul style="list-style-type: none">• 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 projects, inspections are performed of the following five major areas of each public housing project: 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 each project in the PHA's public housing portfolio.
<p>Indicator 2: Financial condition of the PHA's projects Maximum Score: 25</p> <ul style="list-style-type: none">• The objective of this indicator is to measure the financial condition of the PHA's public housing projects for the purpose of evaluating whether the PHA has sufficient financial resources and can manage 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 each public housing project's performance in each of the following sub-indicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the PHA's projects**Maximum Score: 25**

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund**Maximum Score: 10**

- The objective of this indicator is to measure how long it takes the PHA to oblige capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following sub-indicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the sub-indicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89 and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator. A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60 or achieves less than 50 percent of the total points available under the capital fund indicator.

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 and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(1)].

- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)].
- 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 Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

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 designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that complies with VAWA confidentiality requirements. **See Chapter 2, Part III: VAWA, for more information.**

16-V.B. RECORD RETENTION

The PHA must keep the last three (3) years of the Form HUD-50058 and support documentation during the term of each assisted lease, and for a period of at least three (3) years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule. **See Chapter 2, Part I.**

The PHA must keep confidential records of all emergency transfers requested under the PHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period as specific in program regulations [24 CFR 5.2002(e)(12)]. **See Chapter 2, Part III: VAWA and Part V: Exhibits on VAWA for more information.**

PHA Policy

HUD-50058s During Lease Term: The PHA will keep the last three (3) years of the Form HUD-50058 and support documentation.

HUD-50058 After End of Participation: The PHA will keep for at least three (3) years after end of participation all documents related to a family's eligibility, tenancy, and termination.

EIVs: The PHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the **duration of the tenancy and** for three (3) years from the **end of participation date**.

In addition, the PHA will keep the following records for at least three **(3) years**:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related to PHAS
- Accounts and other records supporting PHA budget and financial statements for the program
- Other records as determined by the PHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff. PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886-A, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt 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*.

PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

**PART VI:
REPORTING REQUIREMENTS
FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]

The PHA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The PHA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within five business days of being so notified by any other medical care professional. The PHA must also report each known case of a child with an EBLL to the HUD field office.

PHA Policy

The PHA will provide the public health department with written notice of the name and address of any child identified as having an elevated blood lead level.

The PHA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

APPENDIX A: GLOSSARY OF ACRONYMS

HUD provides this information for informational purposes only. It is not an official, required, HUD document, but it is nice to have it in the ACOP for informational purposes.

ACC Annual Contributions Contract

ACOP Admissions and Continued Occupancy Policy ACS American Community Survey

ADA Americans with Disabilities Act of 1990

AMI Area Median Income

AMP Asset Management Project

ARRA American Recovery and Reinvestment Act

CDBG Community Development Block Grant (Program)

CFP Capital Fund Program

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)

CHOD Community Housing Development Organization

COCC Central Office Cost Center

COLA Cost of Living Adjustment

CPI Consumer Price Index (published monthly by the Department of Labor as an inflation indicator)

CSSR Community Service and Self-Sufficiency Requirement

EID Earned Income Disallowance

EIV Enterprise Income Verification

ELI Extremely Low-Income

ESGP Emergency Shelter Grants Programs

FDIC Federal Deposit Insurance Corporation

FHA Federal Housing Administration (HUD Office of Housing)

FHEO Fair Housing and Equal Opportunity (HUD Office of)

FICA Federal Insurance Contributions Act (established Social Security taxes)

FMR Fair Market Rent

FR Federal Register

FSS Family Self-Sufficiency (Program)

FY Fiscal Year

FYE Fiscal Year End GAO Government Accountability Office

GAAP Generally Accepted Accounting Principles

HA Housing Authority or Housing Agency

HCV Housing Choice Voucher

HERA **Housing and Economic Recovery Act of 2008**

HOME – Home Investment Partnership Program

HOPE VI Revitalization of Severely Distressed Public Housing Program

HOTMA Housing Opportunity Through Modernization Act of 2016

HQS Housing Quality Standards

HUD Department of Housing and Urban Development

HUDCLIPS HUD Client Information and Policy System

IMS Inventory Management System

IPA Independent Public Accountant

IRA Individual Retirement Account

IRS Internal Revenue Service

ITSPs Individual Training and Services Plans

JTPA Job Training Partnership Act

Kin-GAP Kinship Guardian Assistance Payments

LBP Lead-based paint

LEAs Law Enforcement Agencies

LEP Limited English proficiency

LIHTC Low-Income Housing Tax Credit

LPRs Lawful Permanent Residents

MTW Moving to Work

NAHRO National Association of Housing and Redevelopment Officials

NOFA Notice of funding availability

OGC HUD's Office of General Counsel

OIG HUD's Office of Inspector General

OMB Office of Management and Budget

PASS Plan to Achieve Self-Support

PFS Performance Funding System

PHA Public Housing Agency

PHADA Public Housing Authorities Directors Associations

PAHRA Pennsylvania Association of Housing and Redevelopment Agencies

PHAS Public Housing Assessment System

PIC PIH Information Center

PIH Public and Indian Housing (HUD Office of)

QC Quality control

QHWRA Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD Rental Assistance Demonstration Program

REAC (HUD) Real Estate Assessment Center

RFP Request for proposals

RIGI Regional Inspector General for Investigation

ROSS Resident Opportunity and Supportive Services

SAVE Systematic Alien Verification for Entitlements

SBWL Site-based waiting list

SSA Social Security Administration

SSI Supplemental Security Income

SSN Social Security Number

SNAP Supplemental Nutritional Assistance Program

SWICAs State Wage Information Collection Agencies

TANF Temporary Assistance for Needy Families

TSAP Tenant Selection and Assignment Plan

TTP Total Tenant Payment

UA Utility Allowance

UFAS Uniform Federal Accessibility Standards

UIV Upfront Income Verification

UPCS Uniform Physical Condition Standards

USCIS U.S. Citizenship and Immigration Services

URP Utility Reimbursement Payment

VAWA Violence Against Women Act VCA Voluntary Compliance Agreement

APPENDIX B: HOTMA POLICIES ON HOLD

In accordance with HUD Notice PIH 2024-08 - Attachments, dated December 7, 2024, this ACOP APPENDIX B lists the following HOTMA changes that are on hold and will be incorporated later:

- Attachment A: Asset Limitation – Eligibility restriction on net family assets.
- Attachment B: Calculating Income –
 - 1) New Admission and Interim Reexaminations.
 - 2) Annual Reexamination
- Attachment C: Deductions and Expenses
- Attachment F: Income
- Attachment H: Inflationary Adjustment
- Attachment I: Interim Reexamination
- Attachment J: Verification

All provisions of HOTMA listed are currently on hold since they are dependent on HIP implementation. This means the PHA must not implement certain provisions of HOTMA yet, including:

- All asset provisions, including the asset limitation
- All adjusted income provisions, except for the definition of health and medical care expenses
- Inflationary adjustments (although you may use the HUD-determined passbook rate)
- The new verification hierarch, which allows for EIV + Self-Certification
- Annuals using the previous 12-months period income
- Interim re-exam requirements
- Non-interim reexam transactions

These changes are red highlighted in this ACOP Rev. 2025. Once HUD provides the PHAs with a new HOTMA compliance date, BHA will red-highlight and inform all public housing tenants and board of commissioners of the date at which the HOTMA policies noted above will become effective. According to the PIH HOTMA Implementation FAQs for PHAs updated September 13, 2024, PHAs may create an appendix to an Administrative Plan or Admission and Continued Occupancy Policies (ACOP) that contain the HOTMA policies that will be incorporated later.

All HOTMA provisions not listed above are implemented in the ACOP as follows according to firm deadlines:

- The PHA has already stopped enrolling public housing families in the EID as of December 31, 2023.
- The PHA has already transitioned to the new Form HUD-9886-A as of January 1, 2024.

- The PHA has already applied HOTMA 102/104 income exclusion listed in 24 CFR 5.609 (b), including new requirements for student financial assistance for income examinations July 1, 2025.
- The PHA has applied provisions related to De Minimis Errors as of July 1, 2025.
- The PHA has applied HOTMA 102/104 definitions listed at 24 CFR 5.403 and 5.603 for all transactions effective as of July 1, 2025, including:
 - Earned Income
 - Unearned Income
 - Family
 - Day Laborer
 - Independent Contractor
 - Dependent
 - Foster Child and Foster Adults
 - Health and Medical Care Expenses
 - Minor
- The PHA shall stop using the EIV Income Report during interim exams, as of July 1, 2025
- The PHA has accepted third-party verification within 120 days of the date received by the PHA, rather than 60 days, as of July 1, 2025.
- The PHA has accepted a statement dated within the appropriate benefit year for fixed income sources like Social Security.