



Admissions and Continued Occupancy Policy

DRAFT
November 2024

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA
ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)**

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INTRODUCTION

ABOUT THE ACOP

Housing Authority of the City of Alameda (“AHA”) policy must be consistent with the public housing lease and any policy documents provided to tenants, and the lease and policy documents must comply with federal, state and local law.

The Admissions and Continued Occupancy Policy (“ACOP”) contains policies that reflect the terms of AHA’s public housing lease. Policies on a particular topic may be included in the public housing lease, or may be a separate document incorporated in the lease by reference, such as a pet or transfer policy.

REFERENCES CITED IN THE ACOP

Authority for AHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by U. S. Department of Housing and Urban Development (“HUD”). California law also directs AHA policy. State and local law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, property management industry practice guides AHA policy. Finally, the public housing lease will affect AHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of AHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides non-mandatory guidance to housing authorities through HUD-published guidebooks. Expired HUD Notices and handbooks also provide guidance for AHA policy. Following HUD guidance is optional, as long as AHA policies comply with federal law, federal regulations, and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, AHA reliance on HUD guidance provides AHA with a “safe harbor.”

Content contained on the HUD website provides further clarification of HUD policies. For example, FAQs (Frequently Asked Questions) on the HUD website provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, AHA must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, AHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support AHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001
HUD 50058 IB	HUD 50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004

Resources and where to find them

Following is a list of resources helpful to AHA or referenced in the model ACOP, and the online location of each.

Document and Location

Code of Federal Regulations http://www.ecfr.gov
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Enterprise Income Verification (EIV) System https://www.hud.gov/program_offices/public_indian_housing/programs/ph/eiv
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm
Federal Register http://www.gpo.gov/fdsys/search/getftoc.action
General Income and Rent Determination FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001. www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is Available http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/guideprojincome.doc
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 http://www.hud.gov/offices/fheo/promotingfh/FederalRegistepublishedguidance.pdf
Notice PIH 2007-27 (HA), Disallowed Costs and Sanctions Resulting from On-Site Monitoring Reviews
Notice PIH 2012-10, Verification of Social Security Numbers (SSNs) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report http://portal.hud.gov/huddoc/pih2012-10.pdf
Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System http://www.hud.gov/offices/pih/publications/notices/10/pih2010-19.pdf
Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf

OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010
Public Housing Occupancy Guidebook, June 2003 http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions http://www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm
VAWA Reauthorization Act https://www.govinfo.gov/content/pkg/FR-2023-01-04/pdf/2022-28073.pdf
Verification FAQs http://www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm
Verification Guidance, March 2004 (attachment to Notice PIH 2004-1) http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf

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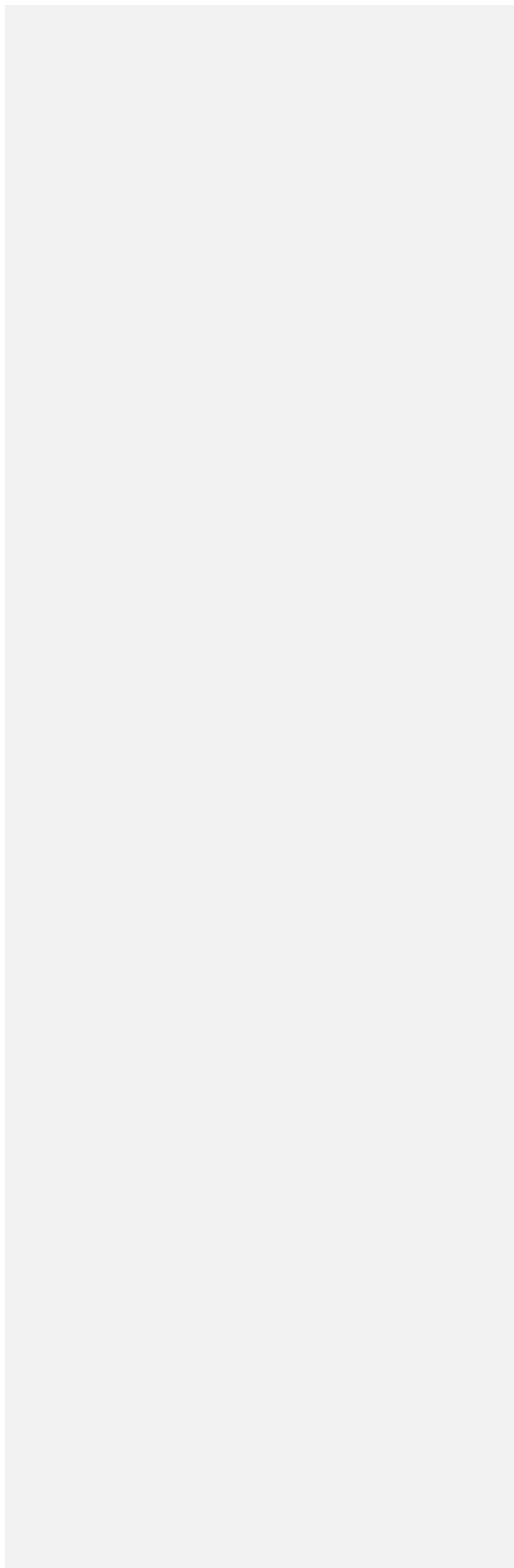
The HUD website is <http://www.hud.gov/index.html>.

Guidebooks, handbooks and other HUD-published and federal resources may be found at the HUD Clips website:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips.

APPENDICES

Lease Packet
• Lease and the following attachments:
• A. Grievance Procedures
• B. House Rules
• C. Mold Notification
• D. Lead Based Paint Disclosure
• E. Pest Control
• F. Pet Agreement
• G. Schedule of Maintenance Fees
• H. Parking policy
• I. Drug Free Environment
• J. Community Service Eligibility Form
• K. Flat Rent Notification and Election Forms
• L. Accessible Unit Notification

• M. Unlawful activities
• N. Parking Policy and Fees
• O. VAWA



CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

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

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

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

PART I: THE PUBLIC HOUSING AGENCY (AHA)

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF AHA

Public housing is funded by the federal government and administered by the Housing Authority of the City of Alameda for the jurisdiction of the City of Alameda, California.

AHA is governed by a Board of Commissioners. This document will refer to the “Board of Commissioners” as “The Board”. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board establishes policies under which AHA conducts business, and ensures that those policies are followed by AHA staff. The Board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability and success.

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Formal actions of AHA is taken through written resolutions, adopted by The Board, and entered into the official records of AHA.

The principal staff member of AHA is the Executive Director (“ED”), who is selected and hired by The Board. The ED oversees the day-to-day operations of AHA and is directly responsible for carrying out the policies established by the Commissioners. The ED’s duties include hiring, training, and supervising AHA’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.

MTW Demonstration Program

AHA policy may also be affected by AHA’s participation in Moving to Work (“MTW”), a HUD demonstration program that allows public housing authorities to design and test new policies and procedures at the local level. An MTW Agreement was executed on March 23, 2022, which defined the areas and parameters of AHA’s flexibility under MTW, allowing AHA to begin to explore innovative methods of delivering housing and supportive services to low income residents. Changes to the ACOP developed in the MTW program must be approved by The Board and submitted to HUD.

1-I.C. AHA MISSION

AHA Policy

AHA’s mission is to assure the availability of quality housing for low-income persons and to promote the civic involvement and economic self-sufficiency of residents and to further the expansion of affordable housing within Alameda.

1-I.D. AHA’S COMMITMENT TO ETHICS AND SERVICE

AHA is committed to providing excellent service to all public housing applicants, residents and the public. In order to provide superior service, AHA aspires 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 housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE) 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 service 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 AHA'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 AHA's support systems and commitment to our employees and their development.

AHA 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 United States Housing Act of 1937 ("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 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 AHA 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 AHA 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.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the Federal Register on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

Housing Authority of the City of Alameda has the additional advantage of participating in HUD's demonstration program, Moving to Work ("MTW"). MTW was authorized under the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat 1321) to offer AHA the opportunity to develop and test innovative, locally-designed housing and self-sufficiency strategies for low-income families. It does so by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher rules and permitting AHA to combine

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Commented [AC2]: MTW designation in 2022

operating, capital, and tenant-based assistance funds into a single agency-wide funding source. The purpose of the MTW program is to give AHA and HUD the flexibility to find new ways to: reduce cost and achieve greater cost effectiveness for the Authority; promote self-sufficiency among tenants and clients; and increase housing choices for low-income families.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with AHA to administer programs in accordance with HUD regulations and provides an operating subsidy to AHA. AHA must create written policies that are consistent with HUD regulations. Among these policies is AHA's ACOP. The ACOP must be approved by the Board of Commissioners of AHA.

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

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with AHA 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 AHA is in partnership with mixed-financed developments and manages public housing development, AHA's role is that of owner and landlord. AHA and its partners 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 AHA policy.

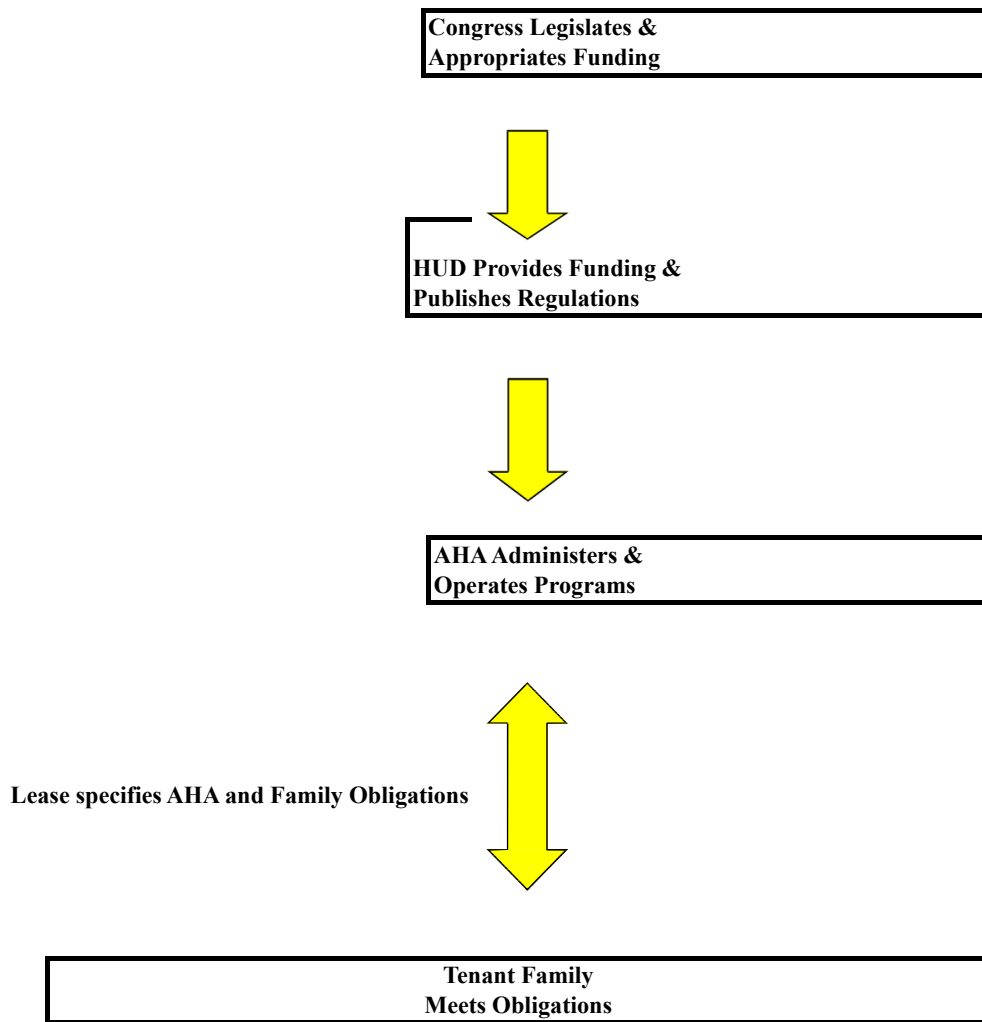
1-II.C. PUBLIC HOUSING PARTNERSHIPS

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

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

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

The Public Housing Relationships



What does HUD do?

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

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

What does AHA do?

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

- Establish local policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain site-based waiting lists and select families for admission
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with NSPIRE)
- Use adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program

- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, AHA'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 responsibilities included but not limited to:

- Comply with the terms of the lease and house rules
- Provide AHA with complete and accurate information, determined by AHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by AHA
- Allow AHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any damages caused by the family, guest or person(s) under the control of the family
- Not engage in drug-related or violent criminal activity
- Notify AHA before moving or terminating 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 AHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

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

The ACOP is AHA's written statement of policies used to carry out the housing program in accordance with federal laws and regulations, HUD requirements, and AHA's MTW agreement with HUD dated March 31, 2004. 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 AHA'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. AHA is responsible for complying with all HUD regulations pertaining to public housing unless exempted by the MTW agreement or policies adopted pursuant to this agreement. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

HUD regulations contain requirements of inclusion in AHA's written policy. This ACOP covers AHA policies on these subjects:

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- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- The organization of the site-based waiting lists and how families are selected and offered available units, including any AHA admission preferences, procedures for removing applicant names from the site-based waiting lists, and procedures for closing and reopening AHA's site-based waiting lists (Chapter 4)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Procedures for verifying the information the family has provided (Chapter 7)
- Lease Requirements (Chapter 8)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies and rules about safety and ownership of animals in public housing (Chapter 10)
- Policies regarding community service requirements (Chapter 11)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to AHA of amounts the family owes AHA (Chapter 15 and 16)

Mandatory vs. Discretionary Policy

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

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

HUD expects AHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies AHA has adopted. AHA's ACOP is the document that contains and clarifies AHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application
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of policy. HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of AHA policy, even though it is not mandatory, provides a AHA with a “safe harbor.” If AHA adopts an alternative 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 from that suggested by HUD, but AHA 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

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

AHA Policy

AHA will review and update the ACOP at least once a year, and more often if needed, to reflect changes in regulations, AHA 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 AHA to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of AHA's public housing operations.

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require AHA to treat all applicants and tenant families equally, providing the same quality of service regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. AHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- 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 further clarified in Notice PIH 2014-20
- Violence Against Women Act (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff

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

2-I.B. NONDISCRIMINATION

AHA fully complies with all federal, state and local nondiscrimination laws; the Americans with Disabilities Act; and the HUD regulations governing Fair Housing and Equal Opportunity. AHA does not discriminate on the basis of race, color, religion, sex, gender identity, gender expression, marital status, sexual orientation, national origin, ancestry, familial status, source of income, disability, medical condition, age, occupational status, genetic information, association with a member of a protected class, engagement in protected activity, sex-pregnancy or any other unlawful basis.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. [FR Notice 02/03/12]

AHA Policy

AHA will not use any of the factors above to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity of AHA. AHA will take appropriate measures to ensure that the individual with disabilities shall have equal access to available services, programs, and activities offered. Such appropriate measures include, but are not limited to:

- provision of telecommunication devices for the deaf
- provision of sign language interpreters, as requested
- provision of readers and amanuenses, as requested

- use of barrier-free meeting places
- provision of a discrimination complaint procedure

Providing Information to Families

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

Discrimination Complaints

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

In all cases, AHA may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

Upon receipt of a housing discrimination complaint, AHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices and corrective actions [Notice PID 2014-20]

AHA Policy

Accordingly, AHA will assist any family that believes they have suffered illegal discrimination by providing copies of the appropriate housing discrimination forms. AHA will also assist families in completing the forms, if requested. The address of the nearest HUD Office of Fair Housing and Equal Opportunity will also be provided as well as the California Department of Fair Housing and Equal Opportunity (FHCO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

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

AHA Policy

All applicants and resident families will be asked on the intake application, reexamination documents, and notices of adverse action by AHA if they require any reasonable accommodation 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 use our programs and services, please contact AHA 504/ADA Coordinator.” A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common-use spaces. Since rules, policies practices and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them

an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act] .

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

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing an AHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not otherwise be living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with AHA staff
- Displaying posters and other housing information in locations throughout AHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

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

AHA Policy

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

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

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

2-II.D. VERIFICATION OF DISABILITY

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

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

If a person's disability is obvious or otherwise known to AHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to AHA, AHA must verify that the person meets the definition of a person with

a disability, and that the limitations imposed by the disability require the requested accommodation.

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.
- AHA must request only information that is necessary to evaluate the disability-related need for the accommodation. AHA may not inquire about the nature or extent of any disability.
- AHA will request the verifying entity to state whether the accommodation will be needed on a permanent or temporary basis.
- If a reasonable accommodation is approved on a temporary basis, AHA will require an annual recertification to verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability continue to require the requested accommodation. If a reasonable accommodation is approved on a permanent basis, an annual recertification of the disability will not be required. A required annual recertification of the disability will be conducted in conjunction with the regularly scheduled annual reexamination of income and family composition in accordance with the policies set in Chapter 9.
- Medical records will not be accepted or retained in the participant's file.
- If AHA does receive documentation from a knowledgeable professional that contains information regarding an individual's specific diagnosis, treatment, the nature or severity of the disability, AHA will destroy the documentation. In place of the information, AHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26 (HA)].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

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

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on AHA, or fundamentally alter the nature of AHA's operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors, such as the overall size of AHA's program with respect to number of employees, type of facilities and size of budget, type of operations including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

AHA Policy

After a request for an accommodation is presented, AHA will respond, in writing, within 14 business days.

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

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

When units offered to accommodate a reasonable accommodation request have been rejected, AHA may request an "interactive meeting" to allow the resident to state the reasons for rejecting the units offered and explain the nexus between their disability and the need for an alternative accommodation. AHA will document the outcome of the meeting and provide a summary in writing within 14 business days.

If AHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, AHA will notify the family, in writing, of its determination within 14 business days from the date of the most recent

discussion or communication with the family. The notice will inform the family of the right to appeal AHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

Request for an extra bedroom for medical equipment required by a household member with disability should be made in writing. AHA will obtain third-party verification that the extra bedroom is medically necessary. AHA personnel will verify that all living and sleeping rooms in the current unit are insufficient to meet such need before AHA shall consider increasing the bedroom size or subsidy of the family. Note that supplies are not considered medical equipment. The extra bedroom cannot be used as storage. The actual equipment in the extra bedroom should be verified by AHA during routinely scheduled inspections of the unit

Request for an extra bedroom due to a family member's disability should also be made in writing. Third-party verification will be required in order for AHA to determine if the extra bedroom is a medical necessity.

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

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

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

To meet the needs of persons with hearing impairments, TTD (text telephone display) and video relay service (VRS), and video remote interpreting (VRI) communication will be available.

To meet the needs of persons with vision impairment, large-print and one-on-one assistance will be provided upon request. When visual aids are used in public meetings or presentations, or in meetings with AHA staff, one-on-one assistance will be provided upon request.

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

2-II.G. PHYSICAL ACCESSIBILITY

AHA must comply with a variety of regulations pertaining to physical accessibility, including the following.

Notice PIH 2010-26

- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This policy describes the key policies that govern AHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.
- AHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

accommodation will allow the family to overcome the problem that led to AHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, AHA must make the accommodation [24 CFR 966.7].

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

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

2-III.A. OVERVIEW

On December 19, 2003 HUD published guidance designed to assist housing authorities to comply with Title VI of the Civil Rights Act of 1964 ("Title VI") and implementing regulations. Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

While most individuals living in the United States read, write, speak and understand English, there are many for whom English is not their primary language. If these individuals have a limited ability to read, write, speak or understand English, they are considered limited English proficient ("LEP"). Language for LEP Persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information relevant to the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

Recipients of federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons and have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government programs, services, and activities.

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this ACOP, LEP persons are all public housing applicants and tenants or their authorized representative (which could be their parents or other family members). The exception to this will be during times when any of the public housing wait lists are open or for outreach material that explain how to access the program. In these instances, LEP persons will include all potential applicants. In all cases, AHA will determine language services provided LEP populations based on data for the City of Alameda.

In order to determine the level of access needed by LEP persons who speak a particular language, AHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency

with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to AHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on AHA.

2-III.B. ORAL INTERPRETATION

AHA will offer competent interpretation services free of charge, upon request, to the LEP person.

AHA Policy

AHA will utilize a language line for telephone interpreter services.

AHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where feasible and available and according to its language assistance plan (LAP), AHA will designate certified bilingual staff to act as interpreters and translators to assist LEP clients.

Bilingual staff employed by AHA who will provide interpretation must either be certified or pass a required test, which will be facilitated by AHA's Human Resources Department.

2-III.C. WRITTEN TRANSLATION

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

AHA Policy

In order to comply with written translation obligations, AHA will only translate those documents that are necessary to provide essential services. The documents will be revised as business needs change and AHA will accept recommendations from the City of Alameda concerning the need to translate certain documents. Approved vendors will be utilized for this service. Translation of other documents, if needed, can be provided orally.

2-III.D. IMPLEMENTATION PLAN

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

AHA Policy

AHA will develop a written language assistance plan (LAP), the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LAP annually as part of the MTW Annual Plan. The LAP will address the identified needs of the LEP populations served, or potentially served, by its programs. In compliance with federal guidelines, AHA shall make reasonable efforts to provide free language assistance for its LEP clients in its public housing program so as to ensure that these persons have meaningful access to AHA programs and activities.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

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

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

The phrase "physical or mental impairment" includes:

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

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

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life 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 AHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

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

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

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

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

CHAPTER 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and AHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for household members as required.
 - Consent to AHA's collection and use of family information as provided for in AHA provided consent forms.
 - Not currently be receiving a duplicative subsidy.
 - Meet net asset and property ownership restriction requirements.
- AHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or AHA.

This chapter contains three parts:

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

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

Part III: Denial of Admission. This part covers factors related to an applicant’s past or current conduct (e.g. criminal activity) that can cause AHA to deny admission as well as the asset limitation for public housing.

The program rules discussed within this plan are primarily those required by HUD. AHA is authorized under the Moving to Work (MTW) Demonstration program to develop and adopt reasonable policies and processes to explore and test innovative methods of delivering public housing assistance and supportive services to low-income families in Alameda. MTW policies and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard public housing rules and regulations apply.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/14/23, Notice PIH 2014-20, and Notice PIH 2023-27]

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

Family (Notice PIH 2014-20, 24 DFR 5.403)

To be eligible for admission, an applicant must qualify as a family.

The term *family*, as defined by HUD, includes but is not limited to the following, regardless to actual or perceived sexual orientation, gender identity, or marital status:

- A single person who may be elderly, displaced, disabled, near elderly, or any other single person
- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older
- A group of persons residing together that 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
- The remaining member of a tenant family

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

AHA Policy

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

Household

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

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

Family Break-up

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault or stalking, AHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault and stalking, see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family, AHA is bound by the court's determination of which family members continue to receive assistance. There can only be one subsidy. AHA will consider a 50-50 decision to be a non-decision.

AHA Policy

When a family on the site-based waiting list(s) 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 site-based waiting list is open.

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

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

In the absence of a judicial decision or an agreement among the original family members, AHA will determine which family retains their placement on the sitebased waiting list(s) or will continue in occupancy, taking into consideration, the following factors:

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

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

AHA Policy

AHA will deny the request of a Head, Co-head, or Spouse to transfer assistance to remaining family members, when the Head, Co-head, or Spouse requests program termination or no longer requires assistance. Notice will be sent to the family within 10 days of the decision to propose termination of assistance.

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

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

The family may designate any qualified family member as the head of household. A qualified family member means a person who meets all eligibility program requirements.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

AHA Policy

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

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

Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD50058 IB, p. 14].

3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

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

When more than one applicant or assisted family (regardless of program) is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. The dependents can only be claimed by one family member.

If there is a dispute about which family should claim them, AHA will make the determination based on available documents such as court orders or an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

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

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [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 [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62 [24 CFR 945.105].

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person [24 CFR 5.403]. 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-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. (24 CFR Sec. 5.403)

Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

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

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

The lease 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 AHA premises [24 CFR 966.4(f)].

AHA Policy

A resident family must notify AHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period. The lease with the owner may further restrict guest stays and should be reviewed for compliance.

Commented [AC3]: No info in admin plan on whether families must notify AHA of stay

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

Former residents who have been evicted are not permitted as overnight guests.

Commented [AC4]: Not in current admin plan

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

A foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A foster child is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults who are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

AHA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

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

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, court order and actual or threatened domestic violence, dating violence, sexual assault or stalking.

Definitions of Temporarily and Permanently Absent

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

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information

becomes available to AHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

If a child has been placed in foster care, AHA 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.

Absences Due to Military Duty

A family member is temporarily absent from the unit if the family can return to the unit within 30 days of the conclusion of active duty services if not absent from the unit for more than 180 days. The remaining family members can remain in the unit by paying the required rent. If the length of service extends beyond 180 days, AHA will waive the 180 day limit subject to verification of the absence due to active duty service.

If a family member is activated by the Federal Government's activation of Reserve or National Guard personnel and as a result the family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in a unit, the presence of the temporary guardian must be approved by the landlord and the income received by the temporary guardian will not be counted in determining family income. If the temporary guardian is determined to be ineligible due to a criminal background, the family will be given 30 days to find a replacement temporary guardian.

Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

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

If there is a question about the status of a family member, AHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent up to 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

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

Absence Due to Actual or Threatened Domestic Violence, Dating Violence, Sexual Assault or Stalking

Prior to determining that a family member or a family has abandoned the unit, AHA shall take into account the role of reported domestic violence, dating violence, sexual assault or stalking played in the absence.

3-I.M. LIVE-IN AIDE

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

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

AHA Policy

A relative may be approved as a live-in aide.

A live-in aide should:

- be capable of and qualified to provide the needed care;
- NOT had been part of the household while the family was receiving program assistance;
- maintain separate finances from the participant; and
- there is no other reason for the aide to reside in the unit other than to provide care for the person with disability.

If a family member requested to become a live-in aide and AHA has approved the request, the member loses their right to become a future household member, such determination is non-revocable. A relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

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

A live-in aide would use the assisted unit as their primary residence, that is, one aide for around the clock care. Occasional, intermittent, multiple or rotating care-givers typically do not reside in the unit and would not qualify as live-in aides; therefore, an additional bedroom will not be approved for a live-in aide under these circumstances.
[[Notice PIH-2009-22]

AHA will not 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 AHA or to another AHA in connection with Section 8 or public housing assistance under the 1937 Act.

AHA will initially respond in writing to all requests for a live-in aide within **14** business days of receiving a request for a live-in aide.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

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

Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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

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

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

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

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

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

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

AHA Policy

Under MTW Authority, AHA is authorized to determine qualifications for participation in the rental assistance program that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations, as long as the requirements that: i) at least 75 percent of those assisted under the demonstrations are “very low-income” as defined in section 3(b)(2) of the 1937 Act, ii) substantially the same number of low-income persons are assisted under the demonstrations as would be without the MTW authorizations contained herein, and iii) a comparable mix of families are assisted under the Agreement as would have been otherwise in Section I.C. of the MTW Agreements are met. *This authorization waives certain provisions of Sections 16(b) and 8(o)(4) of the 1937 Act and 24 CFR 5.603, 5.609, 5.611, 5.628, and 982.201 as necessary to implement the Agency’s Annual MTW Plan*

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit a signed declaration form that claims their status. However, HUD regulations permit AHA to request additional documentation of their status, such as a passport.

Eligible Non-citizens

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with AHA's efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

Ineligible Non-citizens

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

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

Mixed Families

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

discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

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

AHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.

When AHA determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 14 business days of the determination.

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

Grievance procedures are contained in Chapter 14.

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

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

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

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

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10 as amended by MTW]

All family members must provide documentation of a valid Social Security Number (SSN). Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is over the age of 18, that person must provide SSN documentation as a part of the eligibility determination and prior to being added to the lease.

Note: The requirements above do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

HUD permits an exception if a child under the age of 6 years is added to the applicant household within the 6-month period prior to the household's date of admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 calendar days from the date of admission to the program.

HUD further regulates that AHA must grant an extension of one additional 90-day period if AHA determines that, in AHA's discretion, the applicant's failure to meet the first timeline was due to circumstances that could not reasonably be foreseen and were outside the control of the applicant. If the applicant family fails to provide the required documentation within required time period, AHA must deny eligibility of the applicant family

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

AHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow AHA to obtain information that AHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of AHA to access financial records from financial institutions, unless AHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

AHA Policy

AHA may require each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign the HUD approved AHA Authorization Release Form/Privacy Act Notice form in lieu of the form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

AHA has established a policy that the family's revocation of consent to allow the AHA to access records from financial institutions will result in denial of admission.

3-II.E. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

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

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

AHA Policy

AHA will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation.

AHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

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

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

AHA Policy

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

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

Income and Income Validation Tool (IVT) Reports

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires and permits AHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. AHA's authority in this area is limited by the Violence against Women Reauthorized Act of 2016 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)]. AHA adheres to Federal, state and local regulations in determining criteria to deny assistance.

Alameda has a Fair Chance Housing Ordinance 13581- C.M.S, passed in early 2020, that limits the use of criminal history in tenant selection policies in order to give previously incarcerated persons or other persons with a criminal history a fair opportunity to compete for rental housing and to be able to reside with family members and others, thus putting them in a better position to reintegrate into the community and to obtain gainful employment.

The California Penal Code 11105.03 specifies what information can be released by local law enforcement agencies to housing authorities obtained through the California Law Enforcement Telecommunications System (CLETS) for the purpose of screening prospective participants and limits the information that can be provided regarding convictions of serious felonies and offenses defined in the specified code. In 2015, certain drug use offenses became misdemeanors under [Company]Housing Authority of the City of Alameda

California Proposition 47 and as such are not reported to or used by housing authorities in the eligibility process.

Definitions:

“Criminal Background ” means any report regarding an Applicant’s Criminal History, including, but not limited to, those produced by the California Department of Justice, the Federal Bureau of Investigation, other law enforcement agencies, courts, or by any consumer reporting or tenant screening agency

“Conviction” means a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor or other criminal offense and for which the person was placed on probation, fined, imprisoned and/or paroled.

“Criminal History” means information transmitted orally or in writing or by any other means, and obtained from any source, including, but not limited to, the individual to whom the information pertains, a government agency or a Background Check Report, regarding: one or more Convictions or Arrests; a Conviction that has been sealed, dismissed, vacated, expunged, sealed, voided, invalidated, or otherwise rendered inoperative by judicial action or by statute (for example, under California Penal Code sections 1203.1 or 1203.4); a determination or adjudication in the juvenile justice system; a matter considered in or processed through the juvenile justice system; or participation in or completion of a diversion or a deferral of judgment program.

The term “Criminal Background Check” will encompass the terms criminal background, conviction and criminal history defined above related to denial decisions.

This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking • Notice of eligibility or denial

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

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

Where the statute requires that AHA prohibit admission for a prescribed period after some disqualifying behavior or event, HA may choose to continue that prohibition for a longer period [24 CFR 960.203(c)(3)(ii)].

AHA is required to perform criminal background checks necessary to determine whether any household member may be denied admission based on mandatory criteria as required by Federal regulations.

If AHA proposes to deny admission based on a criminal background check, AHA must notify the household of the proposed action and must provide the subject a copy/summary of the criminal background information and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

AHA will comply with any documentation and notice requirements of the Alameda Fair Chance Housing Ordinance 13581- C.M.S except conditional rental agreements, to the extent such compliance does not conflict with applicable Federal law.

Under Federal Regulations as specified in 24 CFR Part 960 AHA must deny admission based on the following criteria which applies to any applicant household member:

- 1) Is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].
- 2) Convicted of drug-related criminal activity for methamphetamine production in Federally Assisted Housing [24 CFR 960.204(a)(3)].

AHA Policy

AHA will deny admission based on mandatory criteria specified in Federal regulations.

3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
 - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, AHA must comply with all the confidentiality requirements under VAWA. AHA must accept a selfcertification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family; AHA Policy
AHA defines *not sufficient for the size of the family* as being overcrowded based on AHA's occupancy standards in Chapter 5.
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by AHA or the owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require AHA to deny admission for the reasons discussed in this section.

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

AHA is responsible for screening family behavior and suitability for tenancy. In doing so, AHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. AHA's adverse housing decisions based upon criminal activity must be supported by sufficient evidence that the individual engaged in such activity.

AHA Policy

AHA will deny admission based on mandatory criteria specified in Federal regulations.

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

HUD authorizes AHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F AHA may need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking, as .VAWA related disturbances or destruction of property may not be used to deny admission.

AHA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward PHA personnel
Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program

AHA Policy

If determined during the verification process that any member of the applicant’s family owes a debt to any PHA, the applicant will be given 30 days to repay the debt in full unless the PHA to which the debt is owed authorizes a longer repayment period. AHA may continue verification of an applicant’s eligibility, but will not allow the applicant to lease an available unit until the debt has been repaid in full and the applicant determined to be eligible for leasing. The applicant’s assistance will be denied if the applicant fails to repay the debt in full before the 30day period expires (or an extended period up to 90 days authorized by the debt owed to the PHA and AHA).

Commented [AC5]: Tenant repayment agmts set @36 months per admin plan. Do we want to change this on the ACOP?

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

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

3-III.E. SCREENING

Screening for Eligibility

AHA is authorized to obtain criminal background check records from law enforcement agencies, FBI channelers, and certified criminal search vendors to screen applicants for admission to the public housing program. This authority assists AHA in complying with Federal, state and local requirements and AHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records AHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

AHA Policy

AHA uses its own accredited police department to perform the majority of criminal background, conviction and criminal history checks and may use a third-party vendor. AHA will perform criminal background checks for all adult household members. Information may be obtained from any combination of qualified sources or their successors in interest including, but not limited to the California Law Enforcement Telecommunications System (CLETS) or the National Crime Information Center (NCIC).

AHA will :

- 1) Inform the applicant in advance that AHA will check for certain types of criminal history that require mandatory denial under Federal law
- 2) Request written consent to perform a criminal background check and if the applicant objects, allow the applicant to withdraw the application for housing assistance
- 3) Disclose the Federal criteria for mandatory denial

AHA will provide the following documentation:

- 1) City notice on ordinance to applicants in application materials, intake packets, websites and locations frequented by public
- 2) Maintain criminal background check records for at least 3 years as confidential records only for applicants that are denied admission
- 3) If requested, provide records to City to demonstrate compliance
- 4) Submit an annual certificate of compliance to the City in the form provided

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

Additionally, AHA must 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 [Notice PIH 2012-28].

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

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

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

AHA Policy

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

- Payment of rent and utilities
- Caring for a unit and premises

- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

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

AHA have a variety of resources available to them for determination of the suitability of applicants. Generally, AHA should reject applicants who have recent behavior that would warrant lease termination for a public housing resident. [AHA Policy](#)

In order to determine the suitability of applicants, AHA will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

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

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history, AHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide AHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

If previous landlords or the utility company do not respond to requests from AHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development.

AHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. While AHA not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

Screening Employee Applicants/Clients

An employee of AHA who is a client or who is related to a client has a responsibility to avoid any conflict of interest that might lead to unequal treatment. Therefore, the following standards are to be employed in all such circumstances:

Neither employees, nor their staff, if they are a manager or supervisor, shall handle matters related to their own cases or to the cases(s) of member(s) of their family.

Employees shall be responsible for reporting to the Director of Human Resources and the Executive Director or their designee any potential or actual conflict of interest. If the employee is unsure whether or not a conflict of interest exists, the employee shall refer the matter to the Director of Human Resources and the Executive Director for a determination.

It shall be the responsibility of the Executive Director or their designee to ensure that any actions or decisions taken within the his department affecting any employee's participant status or the participant status of an employee's relative are in accordance with all applicable policies

and procedures. AHA shall ensure that the employee or employee's relative shall neither suffer any loss of benefits nor receive any gain of benefits as a result, direct or indirect, of their employment at AHA or their relationship to an AHA employee. As such:

- Each initial determination of eligibility and each selection to a program of an AHA employee or a relative of an AHA employee shall be forwarded to the Executive Director or his designee for review and final approval. A certification stating that all determinations and actions taken have been reviewed pursuant to applicable policies and procedures.
- Any time action is taken or a decision is made which affects the applicant or participant status of an AHA employee or a relative of an AHA employee in any way, all AHA paperwork must be received and signed by the appropriate director before the action or decision becomes effective.

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

Evidence

AHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions. In the case of mandatory denial, AHA will use criminal background check information from authorized sources.

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

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

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

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

AHA Policy

AHA may consider the following circumstances when 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 effects that denial of admission may have on other members of the family who were not involved in the action or failure;

- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) 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 AHA not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.
- As part of its investigation, AHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest.
 - AHA 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 or not the applicant engaged in disqualifying activity

- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs; and

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

AHA 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 [24 CFR 960.203(c)(3)(i)]

HUD permits AHA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

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

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

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

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

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

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

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

If AHA determines that an applicant family is not eligible for the program for any reason, the applicant must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the applicant's right to an informal review, (3) the process for obtaining the informal review [24 CFR 982.554 (a)] and (4) the protections discussed in section 3-III.G. See Chapter 14 for informal review policies.

If AHA uses a criminal background check or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a proposed denial, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The subject of the record

will be given the opportunity to dispute the accuracy and relevance of the information provided during the informal review process in accordance with program requirements [24 CFR 982.553(d)] before AHA can issue the notice of final denial of the application. AHA notification of proposed denial will include a reminder of the family's right to bring counsel and referral information for local legal services organizations.

AHA will comply with the Fair Chance Housing Ordinance in terms of notification to the applicant if there is a denial related to criminal background information.

AHA Policy

If, an applicant appears to be ineligible based on general suitability, a criminal background check, or sex offender registration information; AHA will notify the applicant in writing of the proposed denial and provide the applicant with a copy/summary of the criminal background information when the denial is due to failed criminal screening. The applicant will be given 10 business days to dispute the accuracy and relevance of the information by requesting an informal review. If the applicant does not contact AHA to request an informal review within 10 business days, AHA will proceed with issuing the notice of final denial of admission.

AHA notification of proposed denial will include a reminder of the family's right to bring counsel and to referral information for local legal services organizations.

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

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

3-III.H. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING

[24 CFR Part 5, Subpart L]

The Violence Against Women Act (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of actual or threatened domestic violence, dating violence, sexual assault or stalking. [24 CFR 5.2005].

Definitions of key terms used in VAWA are provided in Section 16-VII of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification and Victim Documentation

Commented [AC6]: Are we changing this timeline?

VAWA expanded notification requirements to include the obligation for AHA to provide applicants who are denied assistance with a notice of VAWA rights and the form HUD-5382 at the time the applicant is denied.

AHA Policy

AHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history that would warrant denial under AHA's policies. Therefore, if AHA makes a determination to deny admission to an applicant family, AHA will include in its notice of denial a statement of the protection against denial provided by VAWA, a notice of VAWA rights and a copy of the form HUD-5382. AHA will offer the applicant the opportunity to provide a statement or documentation affirming that domestic violence, dating violence, sexual assault, or stalking played a role in causing the basis for ineligibility. In accordance with AHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

An individual may satisfy the documentation request in any of the following ways:

1. Completing a HUD-approved certification form (such as Form HUD-5382 or signed statement verifying that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of actual or threatened abuse. AHA will work with the victim to ensure that delivery of the certification form does not endanger the victim's safety.
OR
2. Providing the requesting owner, manager, or AHA with documentation signed by any of the following third parties: (a) an employee, agent, or volunteer of a victim service provider; (b) an attorney; (c) a medical professional; or (d) other knowledgeable professional. The person signing the documentation must have assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse. The person signing the documentation must attest under penalty of perjury to his or her belief that the incident or incidents in question are bona fide incidents of abuse. The victim of domestic violence, dating violence, sexual assault, or stalking must also sign the documentation. or
3. Producing a Federal, State, tribal, territorial, or local law enforcement, court, or administrative record.

The applicant may submit the requested documentation with her or his request for an informal review (see section 16-III.D) or request an extension in writing at that time. If the applicant so requests, AHA will grant an extension of 14 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation

provided by the applicant AHA determines the family is eligible for assistance, no informal review will be scheduled and AHA will proceed with admission of the applicant family.

Nothing in this Policy shall be construed to require AHA to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive any of the benefits provided in this section. AHA may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.(24 CFR 5.2007)

Perpetrator Removal or Documentation of Rehabilitation

AHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, sexual assault, or stalking, AHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation is progressing successfully or was successfully completed. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

AHA Confidentiality Requirements

If because of safety concerns a victim of domestic violence, dating violence, sexual assault, or stalking is unwilling or unable to provide information or identification ordinarily required to confirm eligibility, efforts will be made to otherwise establish eligibility and alternative sources and methods of verification will be accepted.

All information provided to AHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence assault or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law. If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, AHA will inform the victim before disclosure occurs so that safety risks can be identified. If disclosure of the information would

place the victim's safety at risk, AHA will work with the victim to determine whether there are alternatives to disclosure.

Commented [AC7]: Ok to keep? Not specified in AHA admin plan

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads: Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, or

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 [42 U.S.C.6001(8)], which defines developmental disability in functional terms as follows:

(A) In General

The term "developmental disability" means a severe, chronic disability of a person that:

- attributable to a mental or physical impairment or combination of mental and physical impairments
- Is manifested before the person attains age twenty-two
- Is likely to continue indefinitely
- Results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care; (2) receptive and responsive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency
- Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific

congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

- (1) Physical or mental impairment includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
 - (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

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CHAPTER 4

APPLICATIONS, SITE-BASED WAITING LISTS AND TENANT SELECTION

INTRODUCTION

AHA has organized its Public Housing units into a portfolio; and manages an individual site-based waiting list for each site. When a family wishes to reside in a particular public housing site, the family must submit a pre-application for that site-based waiting list at the time the site-based waiting list is open. Site-based waiting lists will be established based on Section 4-II.C. Opening and Closing the Site-based Waiting Lists. The pre-application provides AHA with the information needed to determine the family's initial eligibility for the site-based waiting list. When a unit becomes available, AHA must select families from the site-based waiting lists in accordance with HUD requirements, AHA policies, the ACOP and its MTW Annual Plan.

AHA is required to adopt a clear approach to accepting applications, placing families on the site-based waiting lists, selecting families from the site-based waiting lists, and following this approach consistently. The actual order in which families are selected from the site-based waiting lists can be affected if a family has certain characteristics designated by HUD or AHA to receive preferential treatment.

HUD regulations require that AHA comply with all equal opportunity requirements and 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 AHA complies with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and AHA policies for accepting applications, managing the site-based waiting lists and selecting families from the site-based waiting lists. AHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise AHA'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 AHA will handle the applications it receives.

Part II: Managing the Site-based Waiting Lists. This part presents the policies that govern how AHA's site-based waiting lists are structured, when they are opened and closed, and how the

public is notified of the opportunity to apply for public housing. It also discusses the process AHA will use to keep the site-based waiting lists current.

Part III: Tenant Selection. This part describes the policies that guide AHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that AHA 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 AHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the site-based waiting lists. This part also describes AHA'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 AHA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by AHA. However, AHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of AHA's application [Notice PIH 2009-36].

A two-step process will be used to accept applications. Under the two-step application process, AHA will require families to submit the pre-application and provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the site-based waiting lists. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the site-based waiting list

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

AHA 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 AHA application process. If an applicant indicates that an exception, change, or adjustment to a rule, policy, practice, or service

is needed because of a disability or LEP, AHA treats the information as a request for a reasonable accommodation or an accommodation. Any issues regarding this process are subject to the informal hearing processes as stated in Chapter 14.

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

AHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or AHA must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of AHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

AHA is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion of AHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE SITE-BASED WAITING LIST

AHA must review each completed pre-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 AHA determines the family to be ineligible. Where the family is determined to be ineligible, AHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the site-based waiting lists, or to any particular position on the site-based waiting lists.

Method AHA will use for Placing Apparently Eligible Families on the Waiting List

AHA will use a lottery system to select and place families on the waiting list. Applications will be accepted for a designated period of time as specified in the announcement notice. AHA will take applications that are submitted and randomly assigned a lottery number to each application. The number of families selected will vary according to the number of voucher/units available. AHA may also open the wait list on a continuous basis. In that case, applications received will be accepted continuously and then date and time stamped. These applications may also have a lottery number randomly assigned. Families not selected by the lottery for placement on the waiting list, will be notified within 120 calendar days of receiving a completed application.

Ineligible for Placement on the Waiting List

If AHA determines from the information provided that a family is ineligible, the family will not be placed on the site-based waiting list. When a family is determined to be ineligible, AHA

will send written notification of the ineligibility determination within 120 calendar days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

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Eligible for Placement on the Site-Based Waiting List

AHA will send written notification of the preliminary eligibility determination within 120 calendar days of receiving a completed application. If applicable, the notice will also indicate the site-based waiting list preference(s) for which the family appears to qualify.

Applicants will be placed on the site-based waiting list(s) according to AHA preference(s) and appropriate applicable procedures.

AHA will assign families on the Public Housing site-based waiting lists according to the bedroom size for which a family qualifies as established in the occupancy standards (see Chapter 5). Families may request to be placed on the site-based waiting list for a unit size smaller than the size designated by the occupancy guidelines (as long as the unit is not overcrowded according to AHA 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.

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Placement on the site-based waiting list(s) does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, AHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

PART II: MANAGING THE SITE-BASED WAITING LIST

4-II.A. OVERVIEW

AHA must have policies regarding the type of site-based waiting lists it will use, how it will be organized and managed. This includes policies on notifying the public on the opening and closing of the site-based 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 a sufficient number of applicants.

In addition, HUD imposes requirements on how AHA may structure its site-based waiting lists and how families must be treated if they apply for Public Housing since AHA administers more than one assisted housing program. Public Housing applicants must have an opportunity to apply and be considered for AHA's Housing Choice Voucher and Project Based Voucher waiting lists, if the waiting lists are open.

Under MTW authority, AHA is authorized to determine waiting list procedures, tenant selection procedures and criteria, and preferences, including authorizing vouchers for

relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. This authorization waives certain provisions of Sections 6(r) of the 1937 Act and 24 C.F.R. 903.7 as necessary to implement the Agency's Annual MTW Plan.

4-II.B. ORGANIZATION OF THE SITE-BASED WAITING LISTS

AHA's public housing site-based waiting lists must be organized in such a manner to allow AHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

The site based waiting lists will contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size and number of family members

- Amount and source of annual income
- Accessibility requirement, if any
- Date and time or site-based waiting list opening date and lottery number
- Household type (family, elderly, disabled)
- Admission preference, if any

- Race and ethnicity of the head of household

- The specific site(s) selected for site-based waiting list.

AHA will maintain site-based waiting lists for each of its public housing sites.

HUD directs that a family that applies to reside in public housing must be given an opportunity to apply and be considered for placement on the waiting list for any tenant-based or projectbased voucher or moderate rehabilitation program that AHA 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 AHA maintain a single merged waiting list for their public housing, Housing Choice Voucher, and other subsidized housing programs [24 CFR 982.205(a)(1)].

AHA Policy

AHA will not merge the site-based public housing waiting lists into one centralized waiting list nor will AHA merge the site-based public housing waiting list with the waiting list for any other program AHA operates.

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

Closing the Site-Based Waiting List

AHA is permitted to close the site-based waiting list, in whole or in part, if it has an adequate pool of families to fully lease un developments. AHA 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].

AHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 12 months for the most current applicants. Where AHA has particular preferences or other criteria that require a specific category of family, AHA 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. AHA will publish a notice announcing the opening of the waiting lists in local newspapers of general circulation, media that target LEP's, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. AHA will specify who may apply, and where and when applications will be received.

AHA will announce the reopening of the waiting list 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.

AHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to community based organizations, Alameda Journal, and on line on AHA website at www.alamedahsg.org

AHA is committed to providing safe and decent housing to all eligible individuals and families. Community outreach, during the open application period, is a means of ensuring unrestricted participation.

In order for eligible families to be aware of the various public housing programs and availability, AHA will publish advertisements in newspapers of general circulation, ethnic and gender- focused publications, and other appropriate resources.

AHA will distribute fact sheets to the broadcasting media and initiate personal contacts with news media.

The status of housing availability may be shared with other community service providers to inform them of eligibility requirements and guidelines so that proper referrals to AHA will be made.

Marketing and informational materials will be subject to the following:

- (a) compliance with Fair Housing Act requirements on wording, logo, size of type, etc. (24 CFR 109.30(a);
- (b) providing an accurate description of the housing units, application process, waiting list and preference structure;
- (c) using clear and easy to understand terms and more than strictly English-language print media;
- (d) making clear who is eligible: low income individuals and families; working and non-working people; and people with both physical and mental disabilities, and;
- (e) specifying that reasonable accommodations will be made for persons with disabilities.

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Our language “If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.”

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

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

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

AHA 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 to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

AHA outreach efforts are 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 or families who are least likely to apply.

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform AHA 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 and the AHA may require this to be done on-line unless waived as a reasonable accommodation.

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 AHA 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 AHA's request for information or updates because of the family member's disability, AHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a

reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

The waiting list will be updated periodically to ensure that all applicant information is current and timely.

To update the waiting list, AHA will send an update request via first class mail or e-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 AHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by AHA not later than 30 business days from the date of AHA letter.

If the family fails to respond within 30 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

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When a family is removed from the waiting list during the update process for failure to respond, an informal hearing will not be offered. Such failures to act, on the part of the applicant, prevent AHA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director or his designee may reinstate the family if she or he determines the lack of response was due to AHA error or to circumstances beyond the family's control.

Removal from the Waiting List

AHA will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required.

If AHA 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 AHA 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 AHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

AHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. AHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. AHA 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 AHA. The order may be affected, in part, by any selection preferences for which the family qualifies. The availability of units also may affect the order in which families are selected from the waiting list.

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

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

4-III.B. SELECTION METHOD

AHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that AHA will use.

Under MTW authority, AHA is authorized to determine waiting list procedures, tenant selection procedures and criteria and preferences, including authorizing vouchers for relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. This authorization waives certain provisions of Sections 8(o)(6), 8(o)(13)(J) and 8(o)(16) of the 1937 Act and 24

CFR 982 Subpart E, 982.305 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan.

Local Preferences [24 CFR 960.206]

AHA is 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 AHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with AHA 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)].

AHA will use the following preferences to select families from the waiting list:

- A Veterans Preference (as required by state law);
- A Residency Preference (for persons living or working in Alameda)
- A Family Preference for applicant families with two or more persons, a single person applicant that is 62 years of age or older, or a single person applicant with a disability.
- A family preference for applicant families that are homeless at admission based on the McKinney Vento Act definition

Applicants to the public housing conventional program, within the above preferences, will be selected from the waiting list in the order of their assigned lottery number and according to AHA preference(s) for which they qualify. Among applicants with the same preference, families will be selected according to a random selection process.

Income Targeting Requirement [24 CFR 960.202(b)]

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

If a AHA also operates a housing choice voucher ("HCV") program, admissions of extremely low- income families to AHA's HCV program during a AHA fiscal year that exceed the 75% minimum target requirement for the voucher program shall be credited against AHA'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 AHA fiscal year; (2) ten percent of waiting list admissions to AHA's housing choice voucher program during AHA's fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of AHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low- income family other than an extremely low-income family.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception. AHA must give elderly and disabled families equal preference in selecting these families for admission to mixed- population developments. AHA 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, AHA 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. AHA 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]

AHA has designated the following development projects designated for elderly families. AHA has a HUD- approved allocation plan for the following sites:

Independence Plaza Anne B. Diament

Among the designated developments, AHA must also apply any preferences that it has established.

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

AHA'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 AHA's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

AHA'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 AHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a AHA 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, AHA must comply with the following steps:

Step 1. AHA must determine the average income of all families residing in all AHA covered developments. AHA may use the median income, instead of average income, provided that AHA includes a written explanation in its annual plan justifying the use of median income.

AHA Policy

AHA determines the average income of all families in all covered developments on an annual basis.

Step 2. AHA 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, AHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

AHA Policy

AHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. AHA 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% of median income, whichever is higher).

Step 4. With covered developments having average incomes outside the EIR, AHA must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, AHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances, AHA’s deconcentration 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 in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by AHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and AHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under AHA's deconcentration policy. AHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under AHA'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, AHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

Deconcentration Incentives

AHA has three general occupancy (family) public housing developments covered by the deconcentration rule. None of these covered developments has average incomes above or below 85% to 115% of the average incomes of all such developments. AHA will analyze developments on a regular basis according to the deconcentration rule.

Order of Selection [24 CFR 960.206(e)]

AHA's system of preferences may select families either according to the date and time of application or by a random selection process. The Executive Director or designee may elect to select applicants from other program waitlists when the public housing site-based waitlist has been fully exhausted resulting in vacancies.

All AHA programs may offer assistance to other program applicants when the waitlist for a specific program is exhausted.

Among applicants with the same preference, families will be selected according to the date and time or random selection process. Families will be selected from the waiting list based on:

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

- 2) By matching unit and family characteristics, it is possible that families who are lower on the site-based waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.
- 3) Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and AHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, AHA must notify the family. AHA 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 AHA 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 AHA from making an eligibility determination. (Refer to 4-II.F. Updating the Waiting List)

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that AHA 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.

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)].

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and all adult members of the household must attend the interview together. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to AHA.

The interview will be conducted only if the head of household and all adult members provide appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, AHA will proceed with the interview. If AHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, AHA 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 14 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen 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 LEP applicants, AHA will provide translation services in accordance with AHA's LEP plan. (Refer to Chapter 2) If the family is unable to attend a scheduled interview, the family should contact AHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, AHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without AHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents AHA from making an eligibility determination; therefore AHA will not offer an informal hearing.

The family will be informed of their requirement to attend a mandatory orientation.

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

AHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including AHA suitability standards, AHA 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)].

AHA will notify a family in writing of their eligibility within 10 business days of the determination and their scheduled date for an orientation date. AHA will provide the time frame for occupancy.

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

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

If AHA 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 AHA can move to deny the application. See Section 3-III.F. for AHA's policy regarding such circumstances.

Upon making an eligibility determination, AHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-50066) in accordance with the Violence against Women Act, and as outlined in 16-VII.C. The notice and self-certification

form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility; or (2) when a family is notified of its ineligibility.

CHAPTER 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

AHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

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

Policies in this chapter are organized in two parts.

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

Part II: Unit Offers. This part contains AHA'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 AHA 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 underuse or excessive wear and tear due to overcrowding. . Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors AHA 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, AHA 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. AHA is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62]. Although AHA does determine the size of unit the family qualifies for under the occupancy standards, AHA does not determine who shares a bedroom/sleeping room.

AHA's occupancy standards for determining unit size will be applied in a manner consistent with fair housing requirements.

AHA will use the same occupancy standards for each of the AMP developments. AHA occupancy standards are as follows:

- AHA will assign one bedroom for each two persons within the household, except in the following circumstances:
 - The Head of Household, if single, will be assigned their own bedroom and then one bedroom will be assigned for each remaining two persons within the household.
- A live-in aide will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family. AHA will comply with occupancy standards prior to approving the live-in aide.
- Single person families will be allocated a zero or one bedroom.

AHA will assign bedroom sizes using the maximum number of persons for that unit bedroom size. However, AHA may assign bedroom sizes by the minimum standards to prevent vacancies.

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

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	3

2	2	5
3	4	7
4	6	9

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

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

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

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

Processing of Exceptions

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

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

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

AHA will notify the family of its decision within 14 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

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

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

AHA 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

AHA has adopted a "two-offer plan" for offering units to applicants. Under this plan, AHA will determine how many units are available within each AMP of suitable size and type. Applicants will be offered at least 2 units based on the distribution of vacancies within the AMP. If a suitable unit is available in two (2) locations within the AMP, the applicant will be offered two suitable units. The offers will be made in sequence and the applicant must refuse the first offer in writing before a second offer is made. If the applicant refuses at least two unit offers at the same AMP the applicant will be withdrawn from that site-based waiting list.

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

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

Applicants from each site-based waiting list 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].

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

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

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities
- The family demonstrates to AHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family must offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, stalking, or sexual assault in accordance with. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move
- Safety for VAWA survivors, as the VAWA survivor determines whether a unit is deemed safe, and there is no limit to the number of units survivors may reject for safety reasons.

In the case of 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 site-based waiting list until the family receives an offer for which they do not have good cause to refuse.

Unit Refusal Without Good Cause

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

The applicant may reapply for assistance when the site-based waiting list is opened. If the sitebased waiting list is not open, the applicant must wait to reapply until AHA opens the site-based waiting list.

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

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

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

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

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, AHA requires the applicant to sign an agreement that will be e incorporated as a lease addendum before moving in to an -accessible unit when available.

AHA 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, AHA will offer the unit to a non- disabled applicant.

When offering an accessible unit to a non-disabled applicant, AHA will require the applicant to agree to move to an available non-accessible unit within 30 days when

either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

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

CHAPTER 6:

INCOME AND RENT DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. AHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and AHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and AHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and AHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require AHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allows AHA to adopt additional permissive deductions. These requirements and AHA policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

Under MTW Authority, AHA is authorized to adopt and implement any reasonable policy to establish payments, rents or subsidy levels from tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. AHA is authorized to adopt and implement any reasonable policies to calculate the tenant portion of rent that differ from the currently mandated program requirement in the 1937 Act and its implementing regulations. This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the

PART I: ANNUAL INCOME

6-I.A. OVERVIEW[24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)

- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

Under MTW authority, AHA may provide elderly and disabled families with an option to have their income calculated every three years with a fixed annual cost of living increase or decrease in rent based on the annual cost of living increase for Social Security.
Under MTW authority, AHA may provide elderly and disabled families with an option to have their income calculated every three years with a fixed annual cost of living increase or decrease in rent based on the annual cost of living increase for Social Security.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and AHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.

Children under 18 years of age	<p>Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All other sources of income, except those specifically excluded by the regulations, are included.</p> <p>All other sources of unearned income, except those specifically excluded by the regulations, are included.</p>
Full-time students 18 years of age or older (not head, spouse, or co-head)	<p>Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(3)].</p> <p>All other sources of unearned income, except those specifically excluded by the regulations, are included.</p>

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

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

AHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

Absent Students

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

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

AHA Policy

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

Absent Head or Co-head

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member. (Refer to Chapter 3)

Absences Due to Military Duty

A family member is temporarily absent from the unit if the family can return to the unit within 30 days of the conclusion of active duty services and if not absent from the unit for more than 180 days. The remaining family members can remain in the unit by paying the required rent. If the length of service extends beyond 180 days, AHA may waive the 180 day limit subject to verification of the absence due to active duty service

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations*, p. 12].

AHA Policy

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

If there is a question about the status of a family member, AHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily

absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

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

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary physical custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, AHA will make the determination based on available documents such as court orders or an IRS return showing which family has claimed the child for income tax purposes. (Refer to Chapter 3.)

Caretakers for a Child

Upon notification or determination that neither a parent nor a designated guardian remains in a household receiving assistance, AHA will take the following actions.

Caretaker will not apply for eligibility

- The caretaker will notify AHA in writing of their decision to remove the child from the unit and will not request to apply for eligibility as program participant HOH. The family will receive 30 days' notice of program termination and the owner will receive 30 days' notice of contract cancellation.
- The caretaker will notify AHA in writing that they will remain in the unit; however, they will not request to apply for eligibility as program participant HOH. The family will receive 30 days' notice of program termination and the owner will receive 30 days' notice of contract cancellation.

Caretaker to apply for eligibility while living in unit

- 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 an authorized visitor for 90 days; and will be required to sign the *Use of Space License Agreement*.
- During the initial 30-day period, the caretaker must pass AHA criminal activity and suitability screening and the caretaker must initiate formal custody or legal guardianship with a responsible agency and provide documentation to AHA. If after 90 days has lapsed and the caretaker has not initiated the process to obtain formal custody or legal guardianship, AHA will proceed with action to recover the unit.

- If formal custody or legal guardianship is awarded to a caretaker, the caretaker will be required to sign the lease as head of household (subject to the caretaker meeting all AHA eligibility admissions criteria for Public Housing Program participation.)
- Only a head of household will be added to the household subsidy size cannot be increased. If the new HOH has additional family members, the mixed family proration will be used to calculate the subsidy. The new members are considered ineligible based on the Caretaker for a Child Rule Only.
- The head of household will no longer qualify for program participation if the minor is no longer a member of the 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.
- AHA may extend the caretaker's status as an eligible visitor up to 180 days..
- Caretakers will be required to sign a document acknowledging that the caretaker is not a party to the lease nor entitled to AHA assistance. The caretaker is only approved to live in the unit while serving as the caretaker for the participant minor children. The caretaker will be required to comply with all house rules.
- If a caretaker is deemed ineligible to become a family member;. AHA will send notice to the applicant caretaker/visitor of denial. The notice will inform the caretaker/visitor of their right to request an Informal Hearing and how to request an Informal Hearing. (See Chapter 14).

6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

At initial occupancy and for an interim reexamination of family income, AHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date.

AHA Policy

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

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how AHA annualized projected income.

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case AHA would calculate annual income as follows:
 $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, AHA will calculate annual income using current circumstances and then, should the change in income require AHA to conduct an interim reexamination, conduct an interim reexamination in accordance with AHA policy in Chapter 9..

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27] At annual reexamination, AHA 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 AHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

AHA Policy

AHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, AHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, AHA will use the prior year amounts. In either case the family may provide, and AHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, AHA will count only the amount estimated by the employer.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Earnings of a Minor [24 CFR 5.609(c)(1)]

A *minor* is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, Lease Requirements, p. 5].

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

Commented [AC12]: Should we remove EID because these will technically be “new” families in public housing.

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the AHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member’s current income with his or her “baseline income.” The family member’s baseline income is his or her income immediately prior to qualifying for the EID. The family member’s baseline income remains constant throughout the period that he or she is participating in the EID.

Calculation Method

Initial 12-Month Exclusion

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

AHA Policy

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

Second 12-Month Exclusion

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

AHA Policy

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

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 consecutive months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and HCV assistance, or if there are breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts [24 CFR 960.255(d)]

AHA Policy

AHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(8); Notice PIH 2023-27]

Annual income includes “the net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

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

AHA Policy

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

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

Business Expansion

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

AHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit AHA to deduct from gross income the amortization of capital indebtedness.

AHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means AHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require AHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

AHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, AHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

AHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs - The Higher Education Tribal Grant

- The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
 - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by AHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student’s actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student’s actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

AHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, AHA will exclude the full amount of the assistance received under Title IV from the family’s annual income. AHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, AHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). AHA will then subtract the total amount of the student’s financial assistance from the student’s actual covered costs. AHA will include any amount of financial assistance in excess of the student’s actual covered costs in the family’s annual income.

<p>Example 1</p> <ul style="list-style-type: none">• Actual covered costs: \$20,000• Other student financial assistance: \$25,000• Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)• Included income: \$5,000
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When a student receives assistance from both Title IV of the HEA and from other sources, AHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student’s actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance” would be excluded from income.

Example 2

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, AHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

Example 4

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000

- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]

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

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

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

AHA Policy

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

When a delayed-start payment is received that is to be included and the family reports this during the period in which AHA is processing an annual reexamination, AHA will adjust the tenant rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time AHA is processing an annual reexamination, then AHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, AHA will conduct an interim in accordance with AHA policies in Chapter 9. If not, AHA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2023-27]

AHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

AHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, AHA must use the reduced benefit amount after deducting only

the amount of the overpayment withholding from the gross benefit amount. Further, if a family's social security income is garnished for any reason, AHA will use the net amount after the garnishment in order to calculate the family's income.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

AHA Policy

AHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

AHA will count court-awarded amounts for alimony and child support unless the family certifies and AHA verifies that the payments are not being made.

In order to verify that payments are not being made, AHA will review child support payments over the last three months.

If payments are being made regularly, AHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, AHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, AHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If AHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If AHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, AHA will not include alimony or child support in annual income

6-1.1. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the

family, is excluded from annual income. AHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for AHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.J. WELFARE ASSISTANCE

Overview

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

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

AHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a state or other public agency (‘welfare agency’) under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)].

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, AHA must include in annual income “imputed” welfare income. AHA must request that the welfare agency inform AHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

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

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

AHA Policy

AHA will exclude income of an individual who is an IHSS worker for an individual in the same household who is developmentally disabled. The household must provide a verification of the developmental disability from a qualified third party.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which

HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and AHA or owner chooses not to conduct the examination.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609b)]

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

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)] However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)].

Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.

- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs (e.g., special equipment, clothing, transportation, child care, etc.) and which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)]
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for AHA or the owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

AHA Policy

AHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

AHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4]. In calculating the incremental difference, AHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with AHA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)]
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].
- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (f) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
 - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
 - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
 - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
 - (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise*

Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

AHA Policy

AHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. AHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) AHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, AHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to AHA to show why the asset income determination does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

[24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

AHA Policy

AHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

AHA Policy

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

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

Family Declaration

AHA Policy

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

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. AHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.

- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

AHA Policy

AHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash. In determining the market value of an investment account, AHA will use the value of the account on the most recent investment report.

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*. *Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care-related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, allterrain 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.

AHA Policy

In determining the value of non-necessary personal property, AHA will use the family’s estimate of the value. AHA may obtain an appraisal if there is reason to believe that the family’s estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27] The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

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

However, these amounts may count toward net family assets. AHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and AHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

AHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, AHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

AHA Policy

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets. If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

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

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, AHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member

may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets. If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. AHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for AHA to subtract the amount of the deposit from the value of the excluded asset).

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
 - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
 - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are

excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. [AHA Policy](#)

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

AHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

AHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed \$50,000 (adjusted annually by HUD), AHA may not rely on selfcertification. If actual returns can be calculated, AHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, AHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If AHA can compute actual income from some but not all assets, AHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Under MTW Authority, AHA may implement reasonable family payment policy including total tenant payment, minimum rent, utility reimbursements and tenant rent, including but not limited to establishing definitions of income and adjusted income, or earned income disallowance. The Authority may adopt and implement term limits for its public housing assistance. Such policies will include provisions for addressing hardship cases. This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.

Overview

HUD regulations require AHA to deduct from annual income any of five mandatory deductions for which a family qualifies and allows AHA to deduct other permissive deductions in accordance with AHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed.; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

AHA Policy

All mandatory deductions are eliminated for all households participating in the MTW Rent Reform Pilot (Activity #13-01).

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

Anticipating Expenses

AHA Policy

Generally, AHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), AHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, AHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. AHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, AHA will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, AHA will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)]

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

This medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of Medical Expenses

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.”

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

Families that Qualify for Both Health and Medical and Disability Assistance Expenses

AHA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, AHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work,

(2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

AHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, AHA 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 AHA 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 [New PH OCC GB, *Income Determination*, p. 28].

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

AHA Policy

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

Families that Qualify for Both Health and Medical and Disability Assistance

Expenses

AHA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, AHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.F. CHILD CARE EXPENSE DEDUCTION

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

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

AHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, AHA 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

AHA Policy

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

Furthering Education

AHA Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a fulltime student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

AHA Policy

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

Earned Income Limit on Child Care Expense Deduction

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

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

AHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

AHA Policy

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

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. AHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

AHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, AHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

AHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, AHA will use the schedule of child care costs from Alameda County Social Services agency. Families may present, and AHA will consider, justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c),(d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first. For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.

- When an eligible family's phased-in relief begins at an interim reexamination, AHA 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 noninterim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless AHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by AHA.

AHA Policy

AHA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in AHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

AHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. AHA must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

AHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. AHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with AHA policies.

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 AHA.

The family must provide third-party verification of the hardship with the request. If thirdparty *verification* is not available, AHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

AHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

AHA Policy

AHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If AHA denies the hardship exemption request, AHA notice will also state that if the family does not agree with AHA determination, the family may request a hearing.

If the family qualifies for an exemption, AHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, AHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a 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.

AHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. AHA will extend relief for an additional 90-days if the family demonstrates to AHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. AHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, AHA may terminate the hardship exemption if AHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to AHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, AHA must recalculate the family's adjusted income and continue the child care deduction.

AHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. AHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period. AHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. AHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

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 (child care expenses or health and medical expenses) are more than 40 percent 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.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. AHA will consider qualification under this criterion on a case-by case basis (for example, if the

family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town). The family must provide third-party verification of the hardship with the request. If thirdparty verification is not available, AHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

AHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. If AHA denies the request, the notice must specifically state the reason for the denial. AHA must provide families 30 days' notice of any increase in rent.

If AHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to AHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

AHA Policy

AHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If AHA denies the hardship exemption request, AHA notice will also state that if the family does not agree with AHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, AHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

AHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in AHA policies. PHAs are not limited to a maximum number of 90-day extensions. . PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

AHA must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If AHA denies the request, the notice must specifically state the reason for the denial.

AHA must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable. AHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. AHA will extend relief for an additional 90-days if the family demonstrates to AHA's satisfaction that the family continues to qualify for the hardship exemption. AHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, AHA may terminate the hardship exemption if AHA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]

AHA has opted not to use permissive deductions.

PART IV: CALCULATING RENT

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

Under MTW Authority, AHA may implement reasonable family payment policy including total tenant payment, minimum rent, utility reimbursements and tenant rent, including but not limited to establishing definitions of income and adjusted income, or earned income disallowance. The Authority may adopt and implement term limits for its public housing assistance. Such policies will include provisions for addressing hardship cases. This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.

TTP Formula [24 CFR 5.628]

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

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

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

The TTP of families participating in the MTW Rent Reform Pilot will be calculated based on whether they are identified as Senior, Disabled, or Work-Eligible. Senior and Disabled households TTP is calculated as 27.5 percent of the family's gross monthly income and Work-Eligible families TTP is 27 percent of the family's gross monthly income.

Minimum Rent [24 CFR 5.630]

AHA Policy

The minimum rent for this locality is \$50, except for households participating in the MTW Rent Reform Pilot, in which case the minimum rent is \$25.

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

AHA have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of AHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

AHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to AHA's designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

AHA Policy

AHA chooses not to adopt optional changes to income-based rents.

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

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income

mixing. Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

AHA Policy

AHA chooses not to use ceiling rents.

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

AHA is not limited to establishing a utility allowance schedule in accordance with HUD requirements. AHA is authorized to establish a utility allowance policy for the MTW public housing program that will reduce costs and achieve greater cost effectiveness in Federal expenditures.

AHA Policy

Under MTW authority, AHA will eliminate the Utility Reimbursement Payment (URP). The URP will no longer be provided for program households each month.

For MTW Rent Reform Hardship, see section 6-III.B.

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

Overview

If AHA establishes a minimum rent greater than zero, AHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

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

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by AHA.

AHA currently has not established fixed hardship criteria, but will consider each case individually

MTW Rent Reform Hardships

AHA will provide notification to all households at least six-months prior to implementation of the new UA policy. Households that submit a request and qualify as a hardship case will receive an additional six-month deferment of the new UA policy. All requests for extensions of the hardship period will be reviewed by the Executive Director, or his designee, on a case-by-case basis. The hardship policy applies to cases that meet the following criteria:

- The UA or URP decreased by greater than \$50, and
- Head of household/Co-head/Spouse is elderly or disabled, or

- Household verifies enrollment in a reduced rate utility program (i.e. PG&E CARE).

Implementation of Financial Hardship Exemption

Determination of Hardship

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

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

AHA Policy

AHA 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.

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

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP.

AHA Policy

To qualify for a hardship exemption for minimum rent, 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.

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

No Financial Hardship

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

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

AHA Policy

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

Temporary Hardship

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

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

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

AHA Policy

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

Long-Term Hardship

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

AHA Policy

AHA will review the family's income and hardship status every 120 days and ensure the family is participation in supportive services

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

- At an interim or next scheduled reexamination, the family's calculated TTP is greater than the minimum rent.

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

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. An AHA-established utility allowance schedule is used when determining a family's income-based rent or flat rent. AHA must use the utility allowance applicable to the number of certified bedrooms assigned to the family.

Under MTW Authority, AHA is authorized to adopt and implement any reasonable policy to establish payments, rents or subsidy levels from tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. AHA is authorized to adopt and implement any reasonable policies to calculate the tenant portion of rent that differ from the currently mandated program requirement in the 1937 Act and its implementing regulations. This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 CFR 5.603, 5.611, 5.628,

5.630, 5.632, 5.634 and 960.255 and 966 Subpart A, as necessary to implement the Agency's Annual MTW Plan

AHA is not limited to establishing a utility allowance schedule in accordance with HUD requirements. AHA is authorized to establish a utility allowance policy for the MTW public housing program that will reduce costs and achieve greater cost effectiveness in Federal expenditures. Policies developed under MTW authority also are designed to encourage low income families to take advantage of reduced rate utility programs and to conserve and control their energy consumption.

For policies on establishing the MTW utility allowances, see Chapter 16-I.B.

Reasonable Accommodation [24 CFR 8]

On request from a family, AHA must approve a utility allowance that is higher than the applicable amount for the number of individuals in the household if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability.

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

At reexamination, AHA may use its current MTW utility allowance schedule.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

AHA Policy

Unless AHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first scheduled reexamination after the

allowance is adopted, up to and including any utility allowance schedule developed under MTW authority.

For families on a biennial/triennial reexamination schedule, revised utility allowances will be applied on the earlier of the first anniversary date or first reexamination date following the adoption of the revised utility allowances.

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

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. AHA must prorate the assistance provided to a mixed family. AHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, AHA must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible (family maximum subsidy) .
- (2) Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members. The product of this step is the amount of subsidy the family is eligible to receive
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.
- (6) When the mixed family's TTP is greater than the applicable flat rent, AHA will use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

AHA Policy

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

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

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. AHA is required to apply a utility allowance to flat rents, as necessary. Flat rents are set at 80 percent of the FMR, unless there is an exception granted by HUD, and must be reduced by the amount of the unit's utility allowance, if any. When the family elects to pay the flat rent, the flat rent amount quoted to the family by AHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula. Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

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

AHA 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. AHA must document that flat rents were offered to families under the methods used to determine flat rents for AHA.

AHA Policy

Upon admission and each subsequent regularly scheduled reexamination AHA will offer the family the choice between flat and income-based rent.

AHA 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.

AHA must provide sufficient information for families to make an informed choice. This information must include AHA'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, AHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

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 AHA determines that a financial hardship exists, AHA must immediately allow the family to switch from flat rent to the income-based rent.

AHA Policy

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

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items

Such other situations determined by AHA to be appropriate .

AHA Policy

AHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Phasing In Flat Rents [Notice PIH 2017-23; 24 CFR 960.253(b)]

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

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

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

$$\$500 \times 1.35 = \$675$$

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.

Change in Flat Rents

AHA Policy

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

Flat Rents and Earned Income Disallowance [A&O FAQs]

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

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

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

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

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

(b) Annual income does not include the following:

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
 - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):
 - (A) Distributions of the principal or corpus of the trust; and
 - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
 - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust,

regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

- (3) Earned income of children under the 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and
(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

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

- 1) The Federal government;
- 2) A State, Tribe, or local government;
- 3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- 4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- 5) An institution of higher education.

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

- 1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- 2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship)

that is not excluded pursuant to paragraph (b)(9)(i) of this section);

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

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

- 1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- 2) Expressly to assist a student with the costs of higher education; or
- 3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

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

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

- 1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- 2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance

described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

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

(9) 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.

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

- (i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for AHA or the owner, on a part-time basis, that enhances the quality of life in the development.
- (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(11) 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.

(12) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

- (13) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.
- (14) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- (15) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- (16) 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.
- (17) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- (18) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- (19) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- (20) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- (21) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.
- (22) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this

paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

- (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
 - (ii) Direct Federal or State payments intended for economic stimulus or recovery.
 - (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
 - (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
 - (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
 - (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
 - (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (23) Civil rights settlements or judgments, including settlements or judgments for back pay.
- (24) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- (25) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (26) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
- (i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and
 - (ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of,

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

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

Covered families. Families who receive welfare assistance or other public assistance

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare any member of the family or household. benefit reduction affects family income.

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

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

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

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

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

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family

member has complied with welfare agency economic self-sufficiency or work activities requirements; or

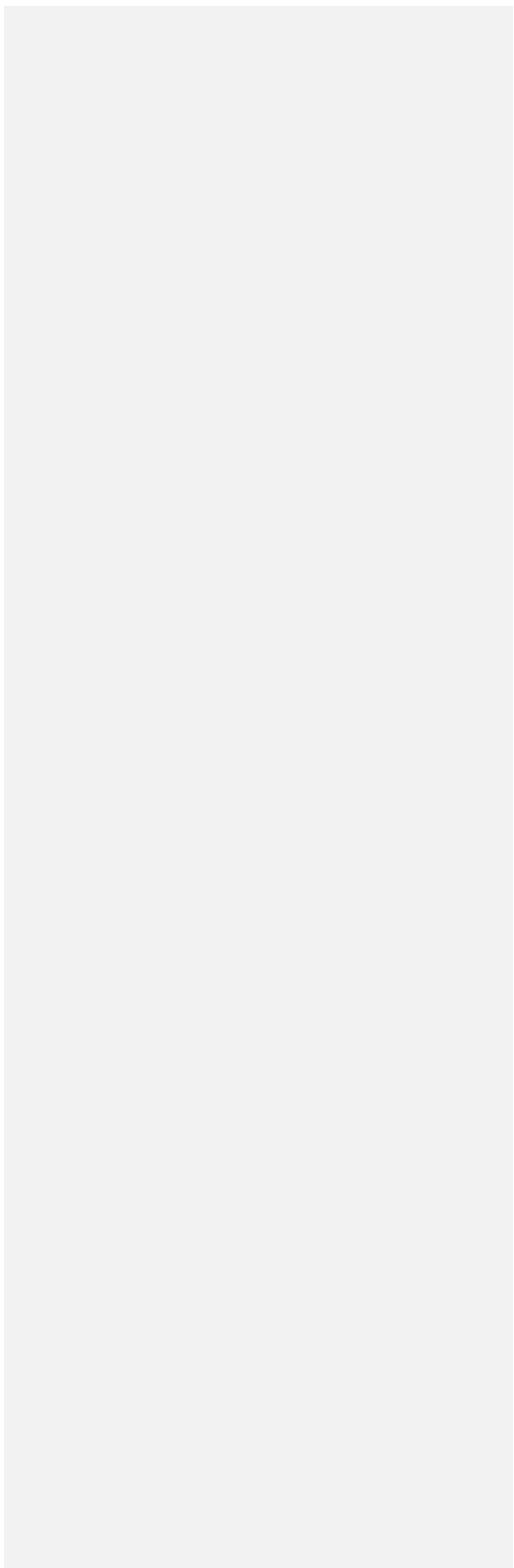
(iii) because a family member has not complied with other welfare agency requirements. *(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to AHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of AHA, the welfare agency will inform AHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform AHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. AHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at AHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to AHA by the welfare agency).

(4) The amount of the imputed welfare



income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) AHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of AHA decision.

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

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

determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with AHA determination, the family may request an informal hearing on the determination under AHA hearing procedure.

(e) AHA relation with welfare agency.

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

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

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

CHAPTER 7

VERIFICATION [24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

AHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. AHA must not pass on the cost of verification to the family.

AHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary AHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by AHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that AHA or HUD determines is necessary to the administration of the program and must consent to AHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. AHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of AHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to AHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or AHA in administrative instructions.

AHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

AHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on

the form. HUD and AHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

AHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act ([12 U.S.C. 3401](#)), whenever AHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to AHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, AHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with AHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of AHA to access financial records from financial institutions, unless AHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

AHA Policy

AHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with AHA policy.

In order for a family to revoke their consent, the family must provide written notice to AHA.

Within 10 business days of the date the family provides written notice, AHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, AHA will notify the local HUD office.

7-1.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS

[24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If AHA adopts a policy to accept this type of verification, then AHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course

of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If AHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by AHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be

considered by AHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If AHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, AHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If AHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet AHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain thirdparty verification of the applicable employment income and cap the respective expense deductions accordingly.

AHA Policy

When available and applicable, AHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. AHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, AHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, AHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, AHA will obtain third-party verification of all sources of income and assets (as applicable).

AHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, AHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size;

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If AHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then AHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, AHA will use the most recent income determination, unless the family presents acceptable evidence that AHA should consider an alternative verification from a different Safe Harbor source.

When AHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to AHA. Depending on when the change occurred, the change may or may not impact AHA's calculation of the family's total annual income. Changes that occur between the time AHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, AHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, AHA will use third-party verification to verify the change.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, AHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. AHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, AHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, AHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust

sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

AHA Policy

When AHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then AHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources: AHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

AHA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, AHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

AHA will apply a COLA to each of the family's sources of fixed income. All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, AHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed \$50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When AHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires AHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires AHA to use the most reliable form of verification that is available and to document the reasons when AHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. AHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed. In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
 - Written third-party verification from the source, also known as “tenant-provided verification”
 - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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

File Documentation

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

7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to AHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to AHA. 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 AHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System
PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time AHA conducts an annual reexamination. However, AHA is not required to use the EIV Income and IVT reports:

- At annual reexamination if AHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission. When required to use the EIV Income Report, in order for the report to be considered current, AHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV. [AHA Policy](#)

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, AHA will obtain EIV Income

and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. AHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When AHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

AHA must review this information at annual reexamination except when AHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If AHA requires an interim for increases in earned income after an interim decrease, then AHA must review the report quarterly after the family's interim decrease.

AHA Policy

In accordance with AHA policies in Chapter 9, AHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which AHA uses Safe Harbor income determinations to determine a family's annual income, AHA will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. AHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

AHA Policy

AHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

AHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When AHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

AHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

AHA Policy

AHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

AHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When AHA determines that discrepancies exist as a result of AHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. AHA is required to review the report at least quarterly. AHA Policy

AHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

AHA is required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date AHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. AHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

AHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV PreScreening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

AHA Policy

AHA will inform all applicants and residents of its use of any non-HUD UIV resources:

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, AHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

AHA Policy

At annual reexamination, if AHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, AHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

AHA will use an average of the last two quarters of income listed in EIV to determine income from employment. AHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, AHA will use written third-party verification from the source as outlined below.

AHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by AHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

AHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, AHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, AHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

AHA Policy

In general, AHA will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used; For all new admissions; and
- For all interim reexaminations.

AHA will not use this method if AHA is able to use an income determination from a means-tested federal assistance program or if AHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by AHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

AHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If AHA determines that third-party documents provided by the family are not acceptable, AHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, AHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, AHA will require the family to provide the two most current, consecutive pay stubs. At AHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), AHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM

[Notice PIH 2023-27]

This type of verification is a form developed by AHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

AHA may use this method when higher forms are unavailable or are rejected by AHA or when the family is unable to provide acceptable verification. AHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

AHA Policy

Typically, AHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, AHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

AHA must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

AHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

AHA Policy

In general, AHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, AHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if AHA chooses to obtain oral third-party verification, AHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

AHA Policy

If the family cannot provide original documents, AHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when AHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total \$50,000 or less and AHA has adopted a policy to accept selfcertification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- AHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When AHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

AHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to AHA.

AHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to AHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. **WARNING:** Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

AHA Policy

AHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver’s license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	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 AHA’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 AHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where AHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

AHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual

- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if AHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, AHA 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 AHA 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.

AHA Policy

AHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

AHA 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.

AHA Policy

AHA 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 AHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if AHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

AHA Policy

AHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the

documentation required to verify it. AHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90day extension will be granted if AHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period AHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

AHA Policy

AHA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

AHA Policy

AHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," AHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

AHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, AHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable. AHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, AHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

AHA 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.

Marriage AHA

Policy

Certification by the head of household is normally sufficient verification. If AHA has reasonable doubts about a marital relationship, AHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

AHA Policy

Certification by the head of household is normally sufficient verification. If AHA has reasonable doubts about a divorce or separation, AHA 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.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

AHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if AHA so requests.

Foster Children and Foster Adults

AHA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

AHA Policy

AHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a child care deduction to enable a family member to further their education.

7-II.F. DOCUMENTATION OF DISABILITY

AHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. AHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. AHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If AHA receives a verification document that provides such information, AHA will not place this information in the tenant file. Under no circumstances will AHA 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.

AHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

AHA Policy

For family members claiming disability who receive disability payments from the SSA, AHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, AHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, AHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to AHA.

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.

AHA Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

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

AHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation. [AHA Policy](#)

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless AHA receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, AHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

AHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

AHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

AHA Policy

AHA offers a preference for working families, described in Section 4-III.B.

AHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

AHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

AHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, AHA will follow documentation requirements outlined in Section 16-VII.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides AHA policies that supplement the general verification procedures specified in Part I of this chapter. [AHA Policy](#)

The following policies do not apply when AHA uses a safe harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

[AHA Policy](#)

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

[AHA Policy](#)

When AHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

AHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment. [AHA Policy](#)

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.). If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, AHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with ondemand companies such as Uber, Lyft, or DoorDash), AHA will provide a format for the individual to declare their income and expenses. AHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

AHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination AHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, AHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, AHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

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

For applicants, since EIV does not contain SS or SSI benefit information, AHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, AHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. AHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

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

- If the participant agrees with the amount reported in EIV, AHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. AHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, AHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, AHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to

request one by calling SSA at 1-800-772-1213. AHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

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

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

AHA Policy

The methods AHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments. If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 12 months prior to AHA request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

AHA Policy

AHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, AHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), AHA may, but is not required to, accept the family’s self-certification that the family’s assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive

from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. AHA must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years. PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, AHA may not rely on the family's selfcertification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, AHA is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

AHA Policy

For families with net assets totaling \$50,000 or less, AHA will accept the family's selfcertification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. AHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, AHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, AHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

AHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, AHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, AHA must obtain third-party verification. AHA Policy

Both at admission and reexam, AHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. AHA reserves the right

to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, AHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, AHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. AHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

AHA Policy

AHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

AHA will verify the value of assets disposed of only if:

AHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

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

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

7-III.H. NET INCOME FROM RENTAL PROPERTY

AHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, AHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept selfcertification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

7-III.J. RETIREMENT ACCOUNTS

AHA Policy

AHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

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

For fully excluded income, AHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

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

AHA Policy

AHA will accept the family's self-certification as verification of fully excluded income. AHA may request additional documentation if necessary to document the income source. AHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by AHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

AHA Policy

AHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

AHA will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, AHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

AHA will only conduct interims in accordance with AHA policy in Chapter 9.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of

higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

AHA Policy

AHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, AHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If AHA is unable to obtain third-party written verification of the requested information, AHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. AHA will verify that:

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

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. AHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

AHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. AHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, AHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

AHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

AHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. AHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, AHA will redact all personally identifiable information.

If AHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, AHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, AHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will AHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, AHA must verify that:

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

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. AHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for AHA’s policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source. [AHA Policy](#)

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past YearsAHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, AHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family’s annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

AHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. AHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, AHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

AHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, AHA will redact all personally identifiable information.

If AHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, AHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, AHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will AHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

AHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, AHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. AHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

AHA Policy

AHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

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

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

AHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, AHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. AHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

AHA Policy

The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

AHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

AHA Policy

Information to be Gathered

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

In the event third-party verification is not available, AHA will provide the family with a form on which the family member must record job search efforts. AHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

AHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

AHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

AHA Policy

AHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

AHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

AHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

AHA Policy

The actual costs the family incurs will be compared with AHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, AHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10]

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

Elderly Noncitizens

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

All other Noncitizens

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

<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the USCIS” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> • A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i> 	

CHAPTER 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between AHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require AHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, AHA may require additional inspections in accordance with AHA policy.

This chapter is divided into three parts as follows:

Part I: Leasing. This part describes pre-leasing activities and AHA's policies pertaining to lease execution, modification and payments under the lease.

Part II: Inspections. This part describes AHA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections..

Part III Use of Space License Agreement or Leasing Units to AHA Police Officers and Maintenance Workers: This part describes AHA's policy pertaining to leasing units to police officers and AHA employed maintenance workers under a Use of Space License Agreement. [24 CFR 960.505

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term if the tenant meets annual eligibility and recertification requirements.[24 CFR 966.4(a)(2)]

PHAs must adopt smoke-free policies, which HUD required to be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.

Part I of this chapter contains regulatory information, when applicable, as well as AHA's policies governing leasing issues.

8-I.B. OCCUPANCY AND LEASE ORIENTATION

AHA Policy

After unit acceptance but prior to occupancy, an AHA representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with a copy of the following:

- The lease and addenda A. AHA's grievance procedure
 - B. House Rules
 - C. Mold Notification
 - D. Lead Based Paint Disclosure
 - E. Pest Control
 - F. Animal Policy Addendum
 - G. Schedule of Maintenance Fees
 - H. Parking Policy
 - I. Drug-Free Environment Tenant Agreement
 - J. Community Service Eligibility Form
 - K. Flat Rent Notification and Election Form
 - L. Accessible Unit Notifications
 - M. Unlawful Activities
 - N. Satellite Dish
 - O. Information about the protections afforded by the Violence Against Women Reauthorization Act (VAWA) including HUD Form 5380, Notice of Occupancy Rights under VAWA, and HUD Form 5382, Self-Certification. Include explanation that these are provided to all applicants, does not indicate a VAWA related request has been made.
 - P. Smoke-Free Public Housing Policy

- The Protect Your Family From Lead in Your Home pamphlet
- Is Fraud Worth It? (form HUD-1141-OIG)
- What You Should Know about EIV,
- Green Clean Kit

Topics to be discussed will include:

- Review and explanation of lease provisions and each addenda listed above
- Applicable deposits and other fees
- Unit maintenance and work orders (maintenance fees and inspections)
- AHA's reporting requirements (household changes and lease compliance)
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- Integrated Pest Management
- Green Clean Kit

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and AHA, 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 AHA unit to another. All current lease non-compliance issues and active lease compliance agreements will be transferred to the new lease, including but not limited to past due rent repayment agreements.

The lease must state the composition of the household as approved by AHA (family members and any AHA-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.

AHA Policy

The head of household, spouse or co-head, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and AHA will retain a copy in the resident's file. Any family member that turns 18 during the lease term will be required to sign the current lease within 30 days of date of birth.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide stating that the live-in aide is not a party to the lease and is not entitled to AHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member. The live-in aide will be required to comply with all house rules.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and AHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

AHA may modify its lease from time to time; however, AHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. AHA must also consider any comments before formally adopting the new lease [24 CFR 966.3]. After proposed changes have been incorporated into the lease and approved by AHA Board of Commissioners, each family must be notified at least 30 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

AHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of maintenance and administrative fees 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 at least thirty (30) days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments.

The notice will be posted on the agency website, as well as in the property management office. Comments received within the thirty (30) days 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 each AHA office location, on the agency website, and must be furnished to applicants and tenants on request [24 CFR 966.5]. Any notice changing the terms of tenancy

for a current tenant will be served in compliance with Code of Civil Procedure section 1162 and/or Civil Code section 827.

AHA Policy

When AHA proposes to modify or revise schedules of maintenance and administrative fees rules, policies and/or regulations, AHA will post a copy of the at each leasing office, AHA website and will mail a notification of the change to each resident family. AHA will maintain proper documentation of the notice for maintenance fees.

Other Modifications

AHA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and AHA will be required to sign and date the change.

If a new household member is approved by AHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and AHA will be required to sign and date the change. If the new member of the household is an adult, he or she will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

Tenant shall pay a security deposit of two hundred fifty dollars (\$250.00) and this amount must be paid in full prior to occupancy unless a financial hardship exists as defined in Section 6-III.B. AHA may use the security deposit upon termination of the lease or rental agreement for any purpose permitted under California law.

AHA Policy

Residents must pay a security deposit to AHA at the time of admission.

AHA will hold the security deposit for the period the family occupies the unit. AHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Under California law, within 21 calendar days after you move, your landlord must either:

- Send a full refund of your security deposit, or
- Mail or personally deliver an itemized statement that lists the amounts of any deductions from your security deposit and the reasons for the deductions, together with a refund of any amounts not deducted.

If the resident transfers to another unit, AHA will process the security deposit based on the maintenance charges incurred on the "old" unit. A new security deposit will be required for the "new" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by AHA 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 AHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

AHA Policy

The tenant rent is due and payable at an AHA-designated location on the first of every month.

If a family's tenant rent changes, AHA 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.

Posting of Payments.

All payments made to AHA by the family are processed using an automated system that processes bulk processing and posting of all rent payments, therefore all payments, without regard to notations on the physical payment instrument, will be posted in the following order:

1. Security deposit
2. Services
3. Other charges (NSF, Late, legal fees)
4. Past Due Rent
5. Current Month's Rent

Late Fees and Nonpayment

AHA's lease will include a penalty when the family is late in paying tenant rent. Penalties for late payments will be issued as stated below [24 CFR 966.4(b)(3)].

AHA Policy

Rent is due on the first (1st) of every month, and it is considered late on the second (2nd). If a tenant fails to pay rent by the tenth (10th) day of the month, a 14 day Notice to Pay Rent or Quit will be issued to the tenant. A fifteen-dollar (15.00) late charge will be assessed if rent is not received by the tenth (10th) day of the month. Partial payments that do not cover all rent owed shall result in a \$15.00 late fee charged to the tenant.

AHA will charge \$15.00 for late fee for rent payments not received by the fifth day of the month.

Payments made that do not cover all the rent owed (partial payments) shall result in a \$15.00 late fee charged on the next rental statement as provided for in the lease or rental agreement.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$15.00 will be charged to the family. Any resident with a payment returned for insufficient funds will be required to pay their rent with money order or cashier's check for a period of 12 months.

Excess Utility Charges

If AHA charges the tenant for consumption of excess utilities, the lease must state the basis or 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 of 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 AHA 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 AHA grievance procedures. AHA 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)].

AHA Policy

When applicable, families will be charged for excess utility usage according to AHA'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 written notice is provided to the tenant. If the family requests a grievance hearing within the required timeframe, AHA may not take action for nonpayment of the charges until the conclusion of the grievance process. Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Fees

If AHA 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 of maintenance fees 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 AMP administrative office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that fees for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after AHA gives written notice of the fees. 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 for a hearing under AHA grievance procedures. AHA 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)].

AHA Policy

When applicable, families will be charged for maintenance and/or damages according to AHA's current maintenance fee 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 fees charged will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Payment of fees are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, AHA may not take action for nonpayment of the maintenance and damage fees charged until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and may be grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

AHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score AHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD rules also require AHA to inspect each public housing unit prior to move-in and at move-out. AHA may require additional inspections, in accordance with AHA Policy. This part contains AHA's policies governing inspections by AHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by AHA (including annual self-inspections) and inspections conducted by HUD REAC.

8-II.B. TYPES OF AHA-CONDUCTED INSPECTIONS

AHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Types of AHA-Conducted Inspections

Move-In Inspections [24 CFR 966.4(i)]

The lease requires AHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by AHA and the resident, must be provided to the tenant and be kept in the resident file.

[AHA Policy](#)

Head of household must attend the move-in inspection and sign the inspection form.

Move-Out Inspections [24 CFR 966.4(i)]

AHA 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 AHA. AHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

AHA Policy

When applicable, AHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 days of conducting the move-out inspection.

Self-Inspections [24 CFR 5.707]

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the selfinspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

AHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

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.

AHA Policy

Supervisory quality control inspections will be conducted in accordance with AHA's maintenance policies.

Special Inspections

AHA's Policy

AHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance and routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

AHA Policy

Inside areas, outside areas, and units will be inspected according to NSPIRE, REAC standards and AHA's maintenance policies.

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

AHA 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 AHA entry delivered to the dwelling unit at least 24 hours before such entry is considered reasonable advance notification. Civil Code Section 1954 (d)(1).

AHA Policy

In accordance with state law, AHA will notify the resident in writing at least 24 hours prior to any non-emergency inspection.

For regular self-annual inspections, the family will receive at least 72 hours written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for AHA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Emergency Entries [24 CFR 966.4(j)(2)]

AHA 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, AHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of AHA-Conducted Inspections

AHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify AHA at least 24 hours prior to the scheduled inspection. AHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. AHA may request verification of such cause.

Attendance at Inspections

The head of household is required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

AHA Policy

While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspections. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a notification of inspection in the unit.

AHA will not enter the unit when there are unsupervised minor children present.

Repairs

Correction timeframes differ depending on whether repairs are considered emergency or nonemergency repairs.

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 AHA of the damage, and AHA must make repairs within a reasonable time frame. Under NSPIRE, AHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, AHA must charge the family for the reasonable cost of repairs. AHA may also take lease enforcement action against the family.

If AHA cannot make repairs quickly, AHA must offer the family standard alternative accommodations. If AHA can neither repair the defect within a reasonable time frame nor offer temporary 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.

Non-emergency Repairs

AHA Policy

AHA will correct deficiencies resulting in a non-emergency work order identified during an AHA conducted inspection within 15 business days of the inspection date. If AHA is unable to make repairs within that period due to circumstances beyond AHA's control (e.g. required parts or services are not available, weather conditions, etc.) AHA will notify the family of an estimated date of completion.

The family must allow AHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Resident-Caused Damages

AHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Fees.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

AHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, mold and mildew or cause damage to the unit are in violation of the lease. In these instances, AHA will issue a pre-notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence may result in lease termination.

8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

Notice to Residents [Notice PIH 2023-16]

AHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease. [AHA](#)

Policy

AHA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides AHA with a list of Life-Threatening and Severe deficiencies. AHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, AHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

AHA Policy

AHA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means AHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or

blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While AHA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, AHA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, AHA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow AHA access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, AHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

AHA Policy

If AHA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond AHA's control (e.g., required parts or services are not available, weather conditions, etc.), AHA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. AHA will also notify the family of an estimated date of completion.

The family must allow AHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

PART III: SPECIAL OCCUPANCY IN PUBLIC HOUSING UNITS

8-III.A. LEASING PUBLIC HOUSING UNITS TO POLICE OFFICERS

HUD 24 CFR 960.505 allows special occupancy in public housing: For the purpose of increasing security for residents of a public housing development, AHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. AHA must include in AHA annual plan or supporting documents the number and location of

the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

Definition:

Police officer. For purpose of this subpart E, “police officer” means a person determined by AHA to be during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

AHA Policy

AHA will execute “Use of Space License Agreements” to qualified police officers for long and/or short term residency in AHA communities where the officers’ physical presence is expected to serve as a deterrent to criminal activity in and around the community. **24 CFR**

960.505

8-III.B. LEASING PUBLIC HOUSING UNITS TO MAINTENANCE WORKERS

AHA has set aside units to house maintenance workers to provide emergency repair.

EXHIBIT 8-1: SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of 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 from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term “smoking” means 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.

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.

AHA POLICIES

Designated Smoking Areas (DSA)

AHA has not designated any smoking areas on the PHA's property. Residents may not discard smoking products on the property.

Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Use of ENDS is permitted in public housing units only as a reasonable accommodation approved by the PHA that necessary for a person with disabilities. Use of ENDS is prohibited in common areas and in outdoor areas within 25 feet from housing and administrative buildings. That is, use of ENDS is prohibited in all areas in which smoking is prohibited.

Effective Date

AHA's effective date(s) of this smoke-free is/are as follows:

The smoke-free policy is effective for all residents, household members, employees, guests, and service persons as of July 18, 2018.

Residents must execute a smoke-free lease addendum as part of the annual lease renewal process. All residents must have been in compliance with the smoke-free policy as of July 30, 2018.

Enforcement

AHA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, AHA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. AHA will not evict a resident for a single incident of smoking in violation of this policy. As such, AHA will implement a graduated enforcement framework that includes escalating warnings. Prior to pursuing eviction for violation of smoke-free policies, AHA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and providing smoking cessation information. The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations that warrant enforcement action, state any disciplinary actions that will be taken for persistent nonresponsiveness or repeated noncompliance, and state how many instances of noncompliance will constitute a violation. Tenancy termination and eviction will be pursued only as a last resort. AHA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Repeated violation of the smoke-free policy may rise to the level of other good cause for termination of tenancy.

Reasonable Accommodation

While addiction to nicotine or smoking is not a disability, AHA will provide reasonable accommodation to persons with disabilities who smoke that are in compliance with the requirements of this smoke-free policy.

CHAPTER 9

REEXAMINATIONS [24 CFR 960.257, 960.259, 966.4]

Under MTW Authority, AHA may adopt and implement reasonable policy for verifying family income and composition and for determining resident eligibility that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. This authorization waives certain provisions of 24 CFR 960.257 and 960 Subpart B, as necessary to implement the Agency's Annual MTW Plan.

MTW process and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard Public Housing rules and regulations apply

INTRODUCTION

With the exception of non-public housing over income families, AHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. AHA must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which AHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires AHA to offer all families the choice of paying income-based rent or flat rent at least annually. AHA's policies for offering families a choice of rents are located in Chapter 6.

As a participant in the MTW program, AHA may alter reexamination requirements for wage earning families and/or elderly and disabled families on fixed incomes. These families may have their income reexamined every two or three years, depending on the source of income, instead of each year. Interim reexaminations are also needed in certain situations.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Biennial, and Triennial Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Annual reexaminations will be conducted for families that have reported "no income" or "non-wage income". Biennial reexaminations will be conducted for families that have reported at least one wage earning source and triennial reexaminations will be conducted for elderly and disabled families on fixed incomes.

Part II: Reexaminations for Families Paying Flat Rents. This part contains AHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part

also contains AHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and AHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, AHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination. For elderly or disabled families on a fixed income and that have opted for reexaminations every three years, recalculation of family rent may result from the application of a cost of living factor.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL, BIENNIAL, TRIENNIAL REEXAMINATIONS FOR FAMILIES [24

CFR 960.257 as amended by MTW]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, AHA must conduct a reexamination of income, family composition, and related exceptions at least once every:

- Year (annual) for families who report no income, income from non-wage sources, mixed income from fixed sources, or families enrolled in Special Programs (FSS).
- Two years (biennial) for families that report at least one established income from wage earnings
- Three years (triennial) for elderly and disabled families receiving all income from a fixed source (Social security, Pension)

The chart found at Exhibit 9-1 summarizes the alternative reexamination schedule.

All reexaminations include gathering and verifying current information about family composition, income, and expenses. Based on this updated information, AHA must recalculate the family's income and rent and offer flat rent.

With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for flat rent families, AHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, AHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, AHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

AHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of AHA. 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].

Unlike when performing an interim reexamination or at intake, at annual reexamination, AHA must determine the income of the family for the previous 12-month period, except where AHA uses a streamlined income determination. Income from assets, however, is always anticipated,

irrespective of the income examination type [Notice PIH 2023-27]. AHA also has the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains AHA’s policies related to streamlined income determinations and the use of safe harbor income verifications.

This part contains AHA’s policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL, BIENNIAL, AND TRIENNIAL REEXAMINATIONS

AHA must establish a policy to ensure that the reexamination for each family paying an income-based rent is completed within a 12 month period for non-wage earning families, a 24month period for qualifying, wage earning families, and a 36-month period for elderly and disabled families on fixed incomes that qualify for triennial reexaminations.

AHA Policy

AHA will begin the reexamination process at least 60 days in advance of its scheduled reexamination effective date. Generally, AHA will schedule reexamination effective dates to coincide with the anniversary date.

Anniversary date is defined as 12 months from the effective date of the family’s last annual reexamination or, during a family’s first year in the program, from the effective date of the family’s initial examination (admission).

If the family transfers to a new unit, AHA will perform a new annual reexamination, and the anniversary date will be changed.

AHA also may schedule a reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Regularly Scheduled Reexamination Process

AHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of AHA. AHA will give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. AHA will provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

Families are required to provide current and accurate information on income, assets, allowances deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

AHA Policy

AHA may elect not to require a family to attend a scheduled reexamination. A family that is not required to attend a scheduled interview must return to AHA the completed reexamination forms, required information and supporting documentation requested in the reexamination packet within the timeframe stated on the reexamination notice

Families generally are required to participate in a regularly scheduled reexamination interview, which must be attended by the head of household, spouse, or co-head. If attending an in-person interview poses a hardship because of a family member's disability, the family should contact AHA to request a reasonable accommodation (see Chapter 2).

Notification of scheduled reexamination interviews will contain the date, time, and location of the interview. The notification will be sent by first-class mail and will include a packet of required forms the family must complete and bring to the interview will be. In addition, the notice will inform the family of the information and supporting documentation that must be brought to the interview. AHA staff will note whether the family requires translation services and will arrange for such services to be provided, upon family request.

If the family is unable to attend a scheduled interview, the family should contact AHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview AHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without AHA approval, or if the notice is returned by the post office with no forwarding address, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

AHA may elect not to require a family to attend a scheduled reexamination. A family that is not required to attend a scheduled interview must return to AHA the completed reexamination forms, required information and supporting documentation requested in the reexamination packet within the timeframe stated on the reexamination notice.

9-I.C. CONDUCTING REGULARLY SCHEDULED REEXAMINATIONS

The terms of the public housing lease require the family to provide updated information regarding income, and family composition for the redetermination of rent, eligibility, and the appropriate size housing unit [24 CFR 966.4(c)(2)].

AHA Policy

Families will be asked to bring the completed reexamination forms and supporting documents requested in the reexamination packet to the scheduled interview.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

For families that were not required to attend a scheduled interview and are unable to provide all required documents and information by the date stated in the reexamination notice, a notice will be sent that the required documents and information must be provided within 10 business days of the date of the notice.

The family is required to report any and all changes prior to the effective date of the annual update and/or recertification. These changes include but are not limited to household composition, all household income and citizenship status.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

9-I.D. REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED OR FLAT

RENTS [24 CFR 960.257(a)(2) and Notice PIH 2023-27]

AHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where AHA uses a streamlined income determination as indicated in Chapter 7 of this policy. AHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with AHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. AHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for AHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments. Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: AHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on AHA's annual reexamination paperwork.

Step 2: AHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, AHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If AHA did not perform an interim or there have been changes since the last reexamination, AHA moves to Step 3.

Step 3: If there were changes in annual income not processed by AHA since the last reexamination, AHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, AHA may use documentation of prior-year income to calculate the annual income. For example, AHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by AHA, for example:
 - Year-end statements
 - Paycheck with year-to-date amounts
 - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or AHA notes discrepancies between EIV and what the family reports, AHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how AHA calculates income from different sources at annual reexamination using the above method.

AHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with AHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with AHA or other agency's determination of income or AHA has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. AHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)].

Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

AHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

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].

AHA Policy

At the annual reexamination, AHA 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. AHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If AHA proposes to terminate assistance based on lifetime sex offender registration information, AHA 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.)

Compliance with Community Service

For families who include nonexempt individuals, AHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for AHA's policies governing compliance with the community service requirement.

9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, AHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

AHA 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.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If AHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by AHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If AHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by AHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by AHA by the date specified, and this delay prevents AHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that AHA offer all families the choice of paying income-based rent or flat rent at least annually. AHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, AHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. AHA is only required to provide the amount of income-based rent the family might pay in those years that AHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, AHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 202303].

As it does for families that pay income-based rent, AHA must also review compliance with the community service requirement for families with nonexempt individuals.

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

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

Frequency of Reexamination

AHA Policy

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

However, for flat rent families who become over-income, this policy will not apply. AHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, AHA will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, AHA will conduct an annual reexamination for the family at their next scheduled annual date. If the

family selects flat rent, AHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

AHA Policy

In conducting full reexaminations for families paying flat rents, AHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require AHA to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that AHA does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

AHA 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)].

AHA Policy

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

In scheduling the annual update, AHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)]. AHA Policy

Generally, the family will not be required to attend an interview for an annual update.

However, if AHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to AHA. The family will have 10 business days to submit the required information to AHA. If the family is unable to obtain the information or documents within the required time frame, the family

may request an extension. AHA will accept 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, AHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to AHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. AHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks 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.

AHA Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, AHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for AHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and AHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances AHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. AHA must conduct any interim reexamination within a

reasonable period of time after the family request or when AHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but AHA generally should conduct the interim reexamination not longer than 30 days after AHA becomes aware of changes in income.

Notice PIH 2023-27 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 AHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

AHA must require families to report household composition changes; however, AHA determines the timeframe in which reporting happens [Notice PIH 2023-27]. AHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

AHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

AHA will conduct interim 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 as a result of birth, adoption, or court-awarded custody does not require AHA approval. However, the family is required to promptly notify AHA of the addition [24 CFR 966.4(a)(1)(v)].

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or courtawarded custody, a family must request AHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

AHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which AHA consent will be given or denied. Under such policies, the factors considered by AHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- AHA’s obligation to make reasonable accommodation for persons with disabilities.

AHA Policy

Families must request AHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by AHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), AHA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by AHA. Exceptions will be made on a case-by-case basis.

AHA will not approve the addition of a new family or household member unless the individual meets AHA’s eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If AHA determines that an individual does not meet AHA’s eligibility criteria or documentation requirements, AHA 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.

AHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

Departure of a Family or Household Member

The family must promptly notify AHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. AHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

AHA Policy

If a household member ceases to reside in the unit, the family must inform AHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

AHA will process an interim if the family’s adjusted income will decrease as a result of a family member permanently moving out of the unit.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

AHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because AHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

AHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, AHA may decline to conduct an interim reexamination if AHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. AHA may set a lower threshold in AHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits AHA from setting a dollar-figure threshold.

However, while AHA has some discretion, HUD requires that AHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, AHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then AHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

AHA Policy

AHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

AHA must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

AHA must conduct an interim reexamination of family income when AHA becomes aware that the family's adjusted income has changed by an amount that AHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- AHA 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
- AHA may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, AHA has the discretion whether to consider a subsequent increase in earned income.

AHA Policy

When a family reports an increase in their earned income between annual reexaminations, AHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family’s last annual reexamination.

AHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

AHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with AHA policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, AHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. AHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, AHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, AHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, AHA would refer to AHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point AHA must conduct an interim reexamination in accordance with AHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances AHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. AHA is required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When AHA makes an initial determination that a family is over-income during an interim reexamination, AHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires AHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

AHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

AHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or AHA may establish policies requiring that families report all changes in income and household composition, and AHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When AHA 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 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 [Notice PIH 2023-27].

AHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify AHA of changes either orally or in writing. If the family provides oral notice, AHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, AHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, AHA will note the information in the tenant file but will not conduct an interim reexamination. AHA will send the family written notification within 10 business days of making this determination informing the family that AHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, AHA will determine the documentation the family will be required to submit based on the type of change reported and AHA policies in Chapter 7. AHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from AHA. This time frame may be extended for good cause with AHA approval. AHA will accept required documentation by mail, email, fax, or in person. AHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if AHA determines that an interview is warranted, the family may be required to attend.

9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with AHA policies:

- For rent increases, AHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first 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 [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with AHA policies:

- For rent increases, AHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, AHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, AHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. 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.

In applying a retroactive change in rent as the result of an interim reexamination, AHA 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. AHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, AHA will apply the decrease the first of the month following completion of the interim reexamination.

However, AHA will apply the results of the interim reexamination retroactively 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 PHA management operations. AHA will decide to apply decreases retroactively on a case-by-case basis.

When AHA applies the results of interim decreases retroactively, AHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with AHA policies.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, AHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in AHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

AHA Policy

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

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires AHA 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 AHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of AHA's schedule of Utility Allowances for families in AHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, AHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of AHA's determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under AHA's grievance procedure [24 CFR 966.4(c)(4)].

AHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, AHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, AHA may discover errors made by AHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under AHA policy and HUD regulations but which HUD still requires AHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, AHA will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family’s first annual or interim reexamination, whichever is sooner, after January 1, 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 percent) of a family member’s increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member’s Social Security number; and
- Updating a family member’s citizenship status from eligible to ineligible or vice versa, resulting in a change to the family’s rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

AHA must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

Exhibit 9-1			
Summary of the Alternative Recertification Schedules			
	Annual	Biennial	Triennial

Frequency	Once per year	Once every 2 years	Once every 3 years
Target Group	<p>Households with:</p> <ul style="list-style-type: none"> • No income at all (zero income) • No income from wages • Income over 120% AMI • Income from a temporary source such as <ul style="list-style-type: none"> ○ Temporary Assistance for Needy Families (TANF) ○ General Assistance (GA) ○ Child Support ○ Unemployment ○ Other non-wage sources • Mixed income from fixed source (e.g. Social Security (SS), Supplemental Security Income (SSI)) <u>and</u> temporary source (e.g. TANF, GA) <p>❖ Also includes households enrolled in Special Programs (e.g. Mainstream, Mod Rehab, VASH, MOMS, Local Program, and FSS –some Special Program types will follow alternative recertification schedule)</p>	<p>Households with:</p> <ul style="list-style-type: none"> • Any income from wages • Mixed income from wage source <u>and</u> fixed source (e.g. SS, SSI) • Mixed income from a wage source <u>and</u> a temporary source (e.g. TANF, child support) 	<p>Elderly and/or Disabled Head of Households with:</p> <ul style="list-style-type: none"> • All income from a fixed source such as: <ul style="list-style-type: none"> ○ SS ○ SS I ○ Pe nsion
During the Interim Years	<ul style="list-style-type: none"> ✓ Required to report increases in income when it occurs ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs 	<ul style="list-style-type: none"> ✓ Not required to report increases in income ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs 	<ul style="list-style-type: none"> ✓ Not required to report increases in fixed income ✓ Required to report any new or nonfixed income sources ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs ✓ Cost of Living Adjustment (COLA) may be automatically applied to household's related income subsidy (once per year at interim recertification)
Hardship Policy	Households can request a review, at any time, of AHA's determination of their adjusted income, and the use of such income to compute their tenant rent if they feel it has been calculated incorrectly.		

EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

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 AHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

<u>Ruby:</u> Wages: \$30,000	<u>Georgia:</u> SSI: \$10,980 (\$915 monthly)
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The EIV report pulled on 12/15/2023

Ruby:	Georgia:
Wages Total: \$33,651	SSI Total: \$10,980
Quarter 3 of 2023: \$8,859 (City Public School)	2023 benefit \$915 monthly
Quarter 2 of 2023: \$8,616 (City Public School)	
Quarter 1 of 2023: \$8,823 (City Public School)	
Quarter 4 of 2022: \$7,353 (City Public School)	

<u>Income Reported on Reexamination Application</u>	
Ruby: <u>Wages at City Public School: \$32,000</u> <u>(switched jobs but no permanent change to amount)</u>	Georgia: <u>SSI benefits: \$10,980 (no changes)</u>
<u>Calculating Ruby's wages:</u> 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 of income in EIV is accurate and reflects her annual wages for the 3/1/2024 annual additional changes to annual income.	<u>Calculating Georgia's SSI benefit:</u> 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 wages in EIV is accurate and reflects her income. The PHA must adjust the prior-year current annual income (2023 SSI benefit) by the 7- percent \$33,651 for annual COLA and will use this amount to calculate annual reexamination annual SSI income for the 3/1/2024 annual additional changes to annual income. COLA: \$64.05 (\$915 x 0.07) New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
Ruby (Head of Household): Other Wage: \$33,651 Myers Family Total Annual Income: \$45,399	Georgia (Other Youth Under 18): SSI: \$11,748

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:
Family Disagrees with EIV**

Staff are processing Paul Hewson’s 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income 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.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

- Wages Total: \$18,271
- Quarter 3 of 2023: \$2,500 (Viking Bakery)
- Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)
- Quarter 2 of 2023: \$1,300 (Sasha’s Sweets)
- Quarter 2 of 2023: \$584 (Larry’s Concessions)
- Quarter 2 of 2023: \$2,401 (Viking Bakery)
- Quarter 1 of 2023: \$6,500 (Sasha’s Sweets)
- Quarter 4 of 2022: \$600 (Sasha’s Sweets)
- SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

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.

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

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, 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. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

<u>Samantha:</u>	<u>Fergus:</u>
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 pulled on 9/16/2024

<u>Samantha:</u>	<u>Fergus:</u>
Wages Total: \$0 (no wage 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’s 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 documentation noted below to the PHA for the 11/1/2024 annual reexamination.

<p>Samantha: Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change) 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)</p>	<p>Fergus: Wages: \$6,000</p>
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Calculating Samantha’s Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on 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.
 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 a 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 in Step 3 (\$1,200 in this example).

Calculating Fergus' 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 four 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).

<u>Calculating Fergus’ Other Non-Wage Income</u>	
Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 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.	
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.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
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	

CHAPTER 10

ANIMALS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This explains AHA's policies on the keeping of animals and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of AHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of AHA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals and pets. Policies related to the designation of a service animal, an assistance animal and their care and handling are discussed in this part.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly developments and general occupancy developments.

PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 960.705]

10-I.A. OVERVIEW

This part discusses situations under which permission for a service or an assistance animal may be denied, and also establishes standards for the care of services and assistance animals. AHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705] do not apply to service animals or assistance animals. All lease provisions apply for service and assistance animals, including maintaining a clean, sanitary unit and ensuring neighbors enjoy the premises in a peaceful, quiet, and nonthreatening environment. The expense of flea elimination shall also be the responsibility of the resident.

AHA requires documents verifying that all animals living in AHA units, including service animals and assistance animals, are licensed, have had their shots and/or documented as healthy animals by a vet or pet shop owner. Any damage caused by a service or assistance animal to the unit and/or common areas of the dwelling will be charged to the tenant for the cost of repairing the damages and may include deduction from the security deposit on move out

10-I.B SERVICE ANIMALS

The Department of Justice (DOJ) under the American with Disabilities Act (ADA) makes a distinction between a "*service animal*" and "*assistance animal*." "*Service animals*" are limited to trained dogs. "*Service animals*" are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA."

AHA may deny a request for a service animal in limited circumstances:

- The animal is out of control and the handler does not take effective action to control it,
- The animal is not housebroken, or

- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies

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

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Residents must submit a reasonable accommodation to gain approval

10-1.C ASSISTANCE ANIMALS

“*Assistance animals*” may include animals other than dogs and are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as "service animals," "assistive animals," "support animals," "companion animal" or "therapy animals" – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

The assistance animal should be allowed to accompany the person wherever people are normally allowed to go, unless it is assessed that allowing access would “impose an undue burden or would fundamentally alter the nature of the housing provider’s services.” This assessment must be made on a case by case basis. AHA does not require assistance animals to be individually trained or certified. Include definitions for each type of animal according to the law.

10-1.D. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

AHA 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 or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

AHA'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 documented objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause physical damage to the property of others

AHA has the authority to regulate assistance animals under applicable federal, state and local law [24 CFR 5.303(b)(3); 960.705(b)(3)]. [AHA Policy](#)

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and AHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.E. CARE AND HANDLING

HUD regulations do not affect any authority AHA may have to regulate assistance animals under federal, state and local law [24 CFR 5.303; 24 CFR 960.705].

AHA Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an service animal or assistance animal violates these policies, AHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If AHA determines that no such accommodation can be made, AHA may withdraw the approval of a particular service animal or assistance animal. If the service animal or assistance animal is not removed from the rental dwelling upon the withdrawal of approval for the particular service animal or assistance animal then AHA may initiate eviction proceedings.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a 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 pet and applies to all AHA owned properties.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

AHA requires registration of the pet with AHA [24 CFR 960.707(b)(5)].

AHA Policy

Pets must be registered with AHA before they are brought onto the premises.

Registration includes written documentation signed by a licensed veterinarian or state/local authority which verifies that the pet has been spayed or neutered, received all inoculations required by state or local law, has no communicable disease(s), is pest-free, is a healthy pet, and weighs 25lb or less.

The pet agreement must be renewed annually and will be coordinated with the annual reexamination date. The resident must provide proof each year that the pet continues to meet all of the stated requirements.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register

Pets

AHA Policy

AHA 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
- AHA 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 AHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of AHA'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 AHA's grievance procedures.

Pet Agreement

AHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with AHA 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 AHA'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 AHA's pet policy and applicable house rules may result in the withdrawal of AHA approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)] Guidelines

AHA may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit

- Prohibitions on types of animals that AHA 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

AHA may not require pet owners to have any pet's vocal cords removed.

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 AHA to define the term [24 CFR 5.306(2)].

AHA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a pet 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
- feral animals
- Pot-bellied pigs
- Animals used for commercial breeding
- Barnyard animals (City ordinance Section 6.04.320)

AHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Pet Restrictions

AHA Policy

The following animals are not permitted:

- Any animal whose weight will exceed 25 pounds
- Any animal 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

Other Requirements

AHA Policy

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET/OWNERSHIP RULES

Pet owners must maintain pets responsibly, in accordance with AHA 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

AHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) animals must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building. Pet owners are not permitted to exercise pets or permit pets to deposit waste on residential site premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

AHA 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 building, or sections of building for residency by pet-owning tenants.

AHA may direct initial tenant moves as may be necessary to establish pet and no-pet areas. AHA 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. AHA 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.

AHA may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

AHA Policy

AHA will provide a 90 day notice to residents of newly designated "no pets" buildings, floors of buildings, and/or sections of buildings.

Unit Inspections/ Maintenance Repairs

During all unit inspections and maintenance repairs, animals must be crated while inside the unit or removed from the interior of the unit and kept at a reasonable distance to allow staff to perform inspections and/or repairs.

Cleanliness

AHA 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 AHA. The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- 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

AHA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

AHA 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

AHA 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 appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage AHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Tethering and *chaining* refers to the practice of fastening a dog to a stationary object or stake, usually in the owner's yard, as a means of keeping the animal under control. These terms do not refer to the periods when an animal is walked on a leash.

Responsible Parties

AHA 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 AHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

AHA Policy

Pets that are not owned by a tenant are not allowed on the premises. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by AHA.

Residents are prohibited from feeding or harboring stray animals.

Pet Rule Violations

AHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement. This includes if a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, a 30 or 60-day notice to cure or quit will be served. Said notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

- A 30 or 60-day notice will contain a brief statement of the factual basis for the determination of the pet rule(s) that were violated.

Pet Removal

AHA 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 responsible party is unwilling or unable to care for the pet, or if AHA after reasonable efforts cannot contact the responsible party, AHA may contact the appropriate state or local agency and request the removal of the pet.

Emergencies

AHA Policy

AHA 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 AHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES

10-III.A. OVERVIEW

This part describes AHA's policies for pet deposits and fees in elderly, disabled and mixed-population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

AHA 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 amount of pet deposit that may be charged by AHA is \$250 per pet per dwelling unit. AHA may permit payments in increments of \$50 per payment for 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)].

AHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits.

Refund of Deposit [24 CFR 5.318(d)(1)]

AHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet. AHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the unit. AHA may return the pet deposit upon completion of an inspection or if the owner no longer owns or keeps a pet in the unit.

AHA Policy

AHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

AHA will provide the resident with a written list of any charges against the pet deposit within 21 days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, AHA will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

AHA Policy

All reasonable expenses incurred by AHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address AHA's ability to impose charges for house pet rule violations. However, charges for violation of AHA pet rules may be treated like charges for other violations of the lease and AHA tenancy rules.

AHA Policy

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

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, AHA may not take action for nonpayment of the charge until the conclusion of the grievance process. Charges for pet waste removal are not part of rent payable by the resident.