

CHAPTER 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring AHA to implement a community service program for all non-exempt adults living in public housing.

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

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: AHA Implementation of Community Service. This part provides AHA policy regarding AHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). AHA and residents must comply with the community service requirement, effective with fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), AHA's Plan must contain a statement of how AHA will comply with the community service requirement, including any cooperative agreement that AHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, AHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of AHA who is not exempt must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or

Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

- The required community service or self-sufficiency activity may be completed at 8 hours each month or may be added together during a 12-month period, as long as 96 hours is completed by each annual certification. (**Notice PIH-2015-12 (HA)**)

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who is:

- Age 62 years or older

- Blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- A primary caretaker of such an individual
- Engaged in work activities

AHA Policy

AHA will consider 8 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Able to meet the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the state in which AHA is located, including a state- administered welfare-to-work program; or
- A member of a family receiving assistance, benefits, services under a state program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the state in which AHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which AHA is located, including a state-administered welfare-to-work program
 - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified

Community Service [PH Occ GB, p. 174]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities

Eligible community service activities includes, but are not limited to:

- Local public or nonprofit institution including but not limited to: schools, Head Start Programs, before-or after- school programs, childcare centers, hospitals, hospices, recreation centers, senior centers, adult daycare centers, homeless shelters, feeding

programs, food banks (distributing donated or commodity foods), clothes closets (distributing donated clothes), etc.;

- Nonprofit organization that serves AHA residents or their children such as: local churches, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, Police Athletic League, organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations;
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts;
- AHA to help improve physical conditions (so long as such work does not alter AHA's insurance coverage); help with children's and/or senior programs; or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Helping neighborhood groups with special projects
- Caring for the children of other residents so they may volunteer

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include, but are not limited to:

- Job readiness or job training while not employed;
- Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers;
- Higher education (junior college or college);
- Employment counseling work placement;
- Basic skills training; ,
- English as a second language and/or English proficiency; ,
- Reading, financial, household management, or computer literacy classes;

- Apprenticeships (formal or informal);
- Budgeting or credit counselling; or
- Any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016-06]

AHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for AHA verification of exempt status. AHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. The family must also sign a certification annually, certifying that they understand the requirement. AHA must

notify that AHA will be validating a sample of self-certifications of completions of the service requirement accepted by AHA under 24 CFR 960.607(a)(1)(ii).

AHA Policy

AHA will provide the family with a copy of the Community Service Policy, at lease-up, reexamination, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by AHA.

On an annual basis, at the time of lease renewal, AHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt at the time of reexamination. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR

960.605(c)(3)]

AHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

AHA Policy

At least 60 days prior to the annual update, AHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or AHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, AHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

AHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, AHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

AHA Policy

Approximately 60 days prior to the end of the lease term, AHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit AHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe or an AHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

AHA Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to AHA within 30 calendar days.

Within 30 calendar days of a family reporting such a change or AHA determining such a change is necessary, AHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the 30 day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to AHA within 30 calendar days by submitting a completed CSSR Exemption Form and provide supporting documentation, if necessary. Any claim of exemption will be verified by AHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 15 business days of a family reporting such a change or AHA determining such a change is necessary, AHA will provide the family written notice that the family member is no longer subject to the community service requirement, if AHA is able to verify the exemption.

The exemption will be effective immediately upon AHA's issuance of written notice of exempt status.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

AHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

AHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form. AHA will provide a completed copy to the family and will keep a copy in the tenant file.

AHA will verify that an individual is exempt from the community service requirement.

AHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with AHA's determination, he or she can dispute the decision through AHA's grievance procedures. (See Chapter 14.)

Documentation and Verification of Compliance [24 CFR 960.607(a)]

If qualifying community service activities are administered by an organization other than AHA, a family member who is required to fulfill a service requirement must provide to AHA one of the following:

- 1) A completed Community Service Participation Log, obtained from AHA, signed by the CSSR eligible organization certifying that the family member has performed the qualifying activities for the required hours, and includes the contact information for the community service provider with a description of activities performed, and the dates of service. [24 CFR 960.607]. This form must also be signed by the family member certifying completion of the activities on the log and that the organization signatures are authentic.

- 2) A completed Community Service Participation Log, signed by the family member selfcertifying compliance with the community service requirement. (FR Vol 81 No. 45).

AHA Policy

If anyone in the family is subject to the community service requirement, AHA will provide the family with community service documentation forms at initial lease-up, at annual update, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and telephone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to AHA, upon request by AHA, at least annually.

AHA may accept signed self-certifications of compliance. Any self-certification may be subject to validation by third party verification. If AHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, AHA has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

AHA may not evict a family due to CSSR noncompliance. However, if AHA finds a tenant is noncompliant with CSSR, AHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that AHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with AHA or the family provides written assurance that is satisfactory to AHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The written agreement must include the means through which a noncompliant family member will comply with the CSSR.

The notice must also state that the tenant may request a grievance hearing on AHA's determination, in accordance with AHA's grievance procedures, and the tenant may exercise any available judicial remedy to seek timely redress for AHA's nonrenewal of the lease because of AHA's determination.

AHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before AHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them, and include formal removal of the family member from the lease.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, AHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, AHA is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, AHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for nonrenewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by AHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits

AHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and *will also serve as the family's termination notice*. The notice will meet the requirements for termination notices described in Section 13IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of noncompliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before AHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

AHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in AHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

AHA Implementation of Community Service

AHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by AHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

AHA Policy

AHA will notify its insurance company if residents will be performing community service at AHA. In addition, AHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that he or she is able to perform community service, AHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

AHA Program Design

AHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including the Resident Advisory Boards, and community agencies or institutions [24 CFR 960.605(b)].

AHA Policy

AHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

AHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. AHA will work with the Resident Advisory Boards and community organizations to ensure residents have access to a variety of volunteer opportunities. AHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, AHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in AHA Plan.

AHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who:

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

CHAPTER 12

TRANSFER POLICY

INTRODUCTION

This chapter explains AHA's transfer policy, based on HUD regulations, HUD guidance, and AHA policy decisions.

This chapter describes HUD regulations and AHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers due to unit conditions, emergency transfer procedures, inter-program, inter-portfolio transfers, VAWA related emergency transfer requests (see Exhibit 16-3 AHAs Emergency Transfer Plan), and payment of transfer costs. High-priority transfers for confidential client requests (ccrs) requiring an immediate move due to threat of harm, criminal activity or reasonable accommodation requests are discussed in Section 12-III.B. Types of Resident Requested Transfers.

Part II: AHA Required Transfers. This part describes types of transfers that may be required by AHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

AHA may require the resident to move from the unit under some circumstances. There are also emergency circumstances under which alternative accommodations must be provided for the resident, that may or may not require a transfer.

The resident may also request a transfer, such as a request for a new unit as a reasonable accommodation.

AHA must have specific policies in place to deal with acceptable transfer requests.

AHA may create a "transfer" waitlist consisting of transfer requests and households on the transfer list may be offered assistance in public housing or the Section 8 Program.

Under MTW authority and with Executive Director approval, AHA may standardize the transfer policy to allow inter-program moves and transfers between the public housing, Housing Choice Voucher, or Project-based Voucher programs, if there are PBV units or HCV

available and the resident is determined to be eligible for the relevant program. AHA may also allow participants of local, non-traditional programs to transfer to the public housing program provided that the family has met the program guidelines specified in the local program. This policy is authorized under Attachment C, Section C.2. of the Amended and Restated Moving to Work Agreement.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

This section discusses emergency transfers due to unit conditions. HUD categorizes certain circumstances as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from other transfers in that it requires immediate action by AHA. An emergency is defined as maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members. Any condition that would produce an emergency work order, as defined under the Public Housing Assessment System (AHA) Management Assessment Subsystem will be considered an emergency. Examples of such unit or building conditions would include for example: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks..

AHA will qualify a resident for an emergency transfer if AHA is unable to make repairs within 24 hours. AHA will take such action to remain compliant with the lease obligations, [PH Occ GB, p. 14, 24 CFR § 966.48 (i), 901.25 (a), 966.4 (h)(4)]

12-I.B. CONDITIONS OF UNIT EMERGENCIES

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

AHA Policy

The following defines an emergency circumstance warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

In the case of a genuine emergency, it may be unlikely that AHA will have the time or resources to immediately transfer a resident. Under such circumstances, if an appropriate unit is not immediately available, AHA should find alternate accommodations for the resident until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible. AHA may transfer the resident to a unit at another AHA or 3rd Party Public Housing Site.

12-I.C. EMERGENCY RELOCATIONS

AHA Policy

If a temporary relocation is necessary because of maintenance conditions, and an appropriate unit is not immediately available, AHA will provide temporary

accommodations to the resident by arranging for temporary lodging. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, AHA will transfer the resident to the first available and appropriate unit after the temporary relocation. AHA may transfer the resident to another AHA or 3rd party Public Housing unit.

Emergency transfers that arise due to maintenance conditions are mandatory for the resident as defined by AHA compliance with NSPIRE.

12-I.D. COSTS OF EMERGENCY TRANSFER

AHA may bear the reasonable costs of temporarily accommodating the resident's alternative lodging when emergency conditions exist and the damage was not caused by the resident.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

AHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, AHA will collect information from companies in the community that provide these services.

If the tenant elects to move their belongings AHA will reimburse the family for eligible out of pocket moving expenses up to AHA's established moving allowance.

12-I.E. AHA HIGH PRIORITY INTER-PROGRAM AND INTER-PORTFOLIO TRANSFER POLICY

Under MTW authority and subject to approval by the Executive Director, or his or her designee, AHA may allow for an high-priority inter-program or inter-portfolio transfer between the public housing program, designated Section 8 PBV or HCV programs based on availability.

Inter-program transfers may be offered if the resident is eligible for the relevant program. AHA will conduct threshold eligibility screening to meet program requirements so as to eliminate duplicating screenings that were performed at entry into the initial program. The transfer may include transfer to designated 3rd party PBV, public housing sites, or by approval from the Executive Director or his designee, the Housing Choice Voucher program.

Where applicable, transfer applicants must be in good standing or have worked out a repayment agreement with AHA prior to AHA initiating the transfer. As VAWA transfers are not discretionary, good standing and repayment agreements are not required prior to initiating, processing, or implementing a VAWA-related emergency transfer request. Interprogram/Inter-portfolio transfers will be processed in the following order:

- Threat of harm, criminal activity, domestic violence and/or VAWA
- Reasonable Accommodation as outlined in Chapter 2-II.A-H of this ACOP
- Occupancy Standards as outlined in Chapter 5 of this ACOP

Exceptions to the above policy must be approved by the Executive Director or their designee.

PART II: AHA-REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to AHA to develop reasonable transfer policies.

AHA may require that a resident transfer to another unit under some circumstances. For example, AHA may require a resident to transfer to make an accessible unit available to a disabled family. Additionally, AHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, AHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by AHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF AHA REQUIRED TRANSFERS

AHA Policy

The types of transfers that may be required by AHA, include, but are not limited to transfers due to the following:

- make an accessible unit available for a disabled family,
- comply with occupancy standards,
- demolition, disposition, revitalization, or rehabilitation, and

- emergency transfers as discussed in Part I of this chapter.

Transfers required by AHA is mandatory for the resident.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, AHA may require the family to agree to move to a non-accessible unit when it becomes available
[24 CFR 8.27(b)].

AHA Policy

When a non-accessible unit becomes available, AHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. AHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

12-II.C. OCCUPANCY STANDARDS TRANSFERS

AHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or under-occupied according to AHA policy [24 CFR 960.257(a)(4)]. On some occasions, AHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is underoccupied, to prevent vacancies. The public housing lease must include the resident's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

AHA Policy

AHA may establish a transfer waitlist for all residents that are under-occupied and/or overcrowded. Families will be placed on the transfer list by AHA when the family size has changed and the family is now too large (overcrowded) or too small (underoccupied) for the unit occupied. AHA may transfer a family in accordance with the Transfer Processing policy discussed in this chapter.

For purposes of the transfer policy, overcrowded and under-occupied are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Under-occupied: the family no longer qualifies for the bedroom size in which they are living based on AHA's occupancy standards as described in Section 5I.B.

AHA may also transfer a family who was initially placed in a unit in which the family was under-occupied to a unit of an appropriate size based on AHA's occupancy standards, when AHA determines there is a need for the transfer.

AHA may elect not to transfer an under-occupied family in order to prevent vacancies. A family that is required to move because of family size will be advised by AHA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards in accordance with the policies in Section 5-I.C. maybe required to transfer if it is necessary to comply with the approved exception.

12-II.D. DEMOLITION, DISPOSITION, REVITALIZATIONS, OR REHABILITATION TRANSFERS

These transfers permit AHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

AHA Policy

AHA will transfer a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished.

AHA will transfer families in accordance with each project's relocation plan. The relocation may include moving to a 3rd party public housing or PBV unit.

12-II.E. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

An AHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, AHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF AHA REQUIRED TRANSFER

Residents will be required to bear the cost of moves to make an accessible unit available and moves due to occupancy standard transfers.

AHA will bear the reasonable costs of transfers that AHA requires for demolition, disposition, revitalization, or renovation.

The reasonable cost of transfers includes the cost of packing, moving, and unloading. AHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, AHA will collect information from companies in the community that provide these services.

If the tenant elects to move their belongings, AHA may reimburse the family for eligible out-of-pocket moving expenses up to AHA's established moving allowance.

Exceptions to this policy must be approved by the executive director or their designee.

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW

HUD provides AHA with discretion to consider transfer requests from residents. The only requests that AHA is required to consider are requests for reasonable accommodation including VAWA related emergency transfer requests. All other transfer requests are at the discretion of AHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by AHA.

Some transfers that are requested by residents should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT-REQUESTED TRANSFERS

AHA Policy

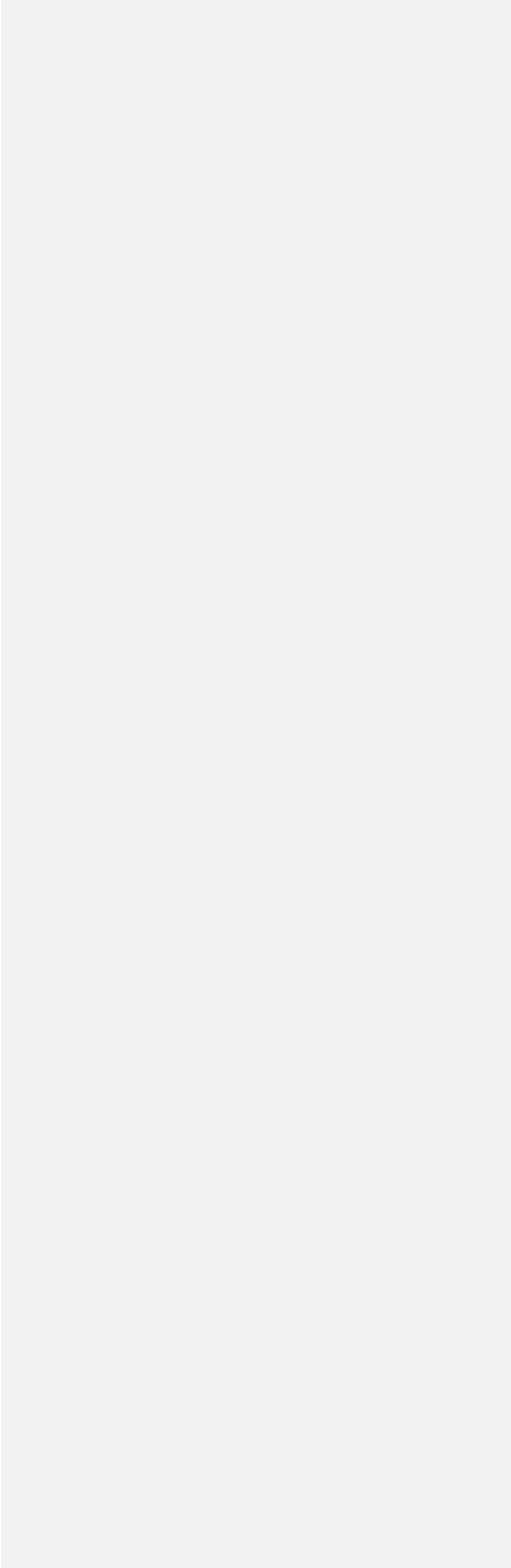
The types of requests for transfers that AHA will consider are limited to requests to alleviate a serious or life threatening condition, a threat of physical harm or criminal activity, VAWA, reasonable accommodation, and a different unit size as long as the family qualifies for the unit according to AHA's occupancy standards. No other transfer requests will be considered by AHA.

AHA will consider the following reasons for the transfer request as high priority:

- Verified medical problems of a serious or life-threatening nature
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at AHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may also be established through documentation outlined in section 16-VII.D, or by any proof accepted by AHA.
- A reasonable accommodation.
- Change in unit size due to severe overcrowding

AHA will consider all transfer requests due to occupancy standards as low priority except in the case of severe overcrowding

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer



Regular Priority Inter-Program and Inter-Portfolio Transfer Policy

Under MTW authority AHA may standardize the transfer policy to allow public housing residents with at least two years of residency to request a transfer to the Section 8 PBV or HCV programs, if there are PBV units or HCV available and the resident is eligible for the relevant program. AHA may also allow participants of local, non-traditional programs to request a transfer to the public housing program provided that the family has met the program guidelines specified in the local program. This option is available up to 10% of the total public housing units. AHA will maintain a transfer request waitlist. The decision to open and close the transfer list is at the discretion of AHA.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, AHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

AHA Policy

Except where reasonable accommodation and VAWA is being requested, AHA will only consider transfer requests from residents that meet the following good record requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Does not owe back rent or other charges, and does not have a pattern of late payment
- Does not have any housekeeping lease violations or history of damaging property
- Can obtain utilities turned on in the name of the head of household (applicable only to properties with resident-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement above may be made when it is to AHA's advantage to make the transfer. Exceptions may also be made when AHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation

12-III.D. SECURITY DEPOSITS

AHA Policy

When a family transfers from one AHA managed public housing unit to another AHA managed public housing unit, AHA will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the “old” unit.

12-III.E. COST OF RESIDENT REQUESTED TRANSFERS

AHA Policy

The resident will bear all of the costs of transfer requested by the resident. However, in cases of documented financial hardship, AHA will consider assuming the transfer costs when the transfer is done as a reasonable accommodation. The definition of financial hardship for purposes of this section will be as that term is defined in section 6-III B of the ACOP.

12-III.F. HANDLING OF REQUESTS

AHA Policy

Residents requesting a transfer to another unit, development, or program will be required to submit a written request for transfer.

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

AHA will respond by approving the transfer, by denying the transfer, or by requiring more information or documentation from the family. If the transfer request is approved the family may be placed on the transfer waitlist.

If the family does not meet the eligibility to transfer requirements under Section 12-III.C., AHA may deny the request for transfer.

AHA will respond within fifteen (15) business days of the submission of the family's request. If AHA denies the request for transfer, the family will be informed of its grievance rights. See Chapter 14 for grievance policy.

VAWA related requests are discussed in the Emergency Transfer Section,

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

The decision as to when a transfer shall take place is at the sole discretion of AHA. AHA will evaluate considerations such as the number of families on AHA's site-based waiting lists, total number and bedroom size of vacant units, fiscal impact, and AHA's ability to continue to serve eligible residents. .

AHA will maintain a transfer list and procedures that determine order and priority of processing transfers.

Emergency transfers due to unit conditions will not automatically go on the transfer list. Emergency transfers will be handled in compliance with Chapter 12 Part A Emergency Transfers.

With the approval of the Executive Director or designee, AHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

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

Emergency and high priority transfers will take precedence over site-based waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

The provisions listed above are to be used as a guide to insure fair and impartial means of assigning units for transfers.

Residents who are required to be transferred for the following reasons shall be given up to two offers(not including rejection for acceptable justification as outlined in sections 12-IV.B) depending on the availability of unit with the qualified bedroom size:

- An emergency;
- Transfer to a unit that reasonably accommodates a family member's disability; and

Refusal to accept a transfer by any resident who may be required to move in compliance with occupancy standards contained in Chapter 5 or because their dwelling unit is not habitable shall be grounds for termination of their lease.

AHA Policy

Residents that are grossly over-housed or under-housed will receive one offer of a transfer.

When the transfer is required by AHA, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

When the unit transfer has been granted due to an approved reasonable accommodation request and the unit offered is rejected, AHA may request an “interactive meeting” to allow the resident to state the reasons for rejecting the unit offered and explain the nexus between their approved reasonable accommodation request and the need for an alternative unit. If AHA determines that there is no nexus for the alternative unit the resident will be given another opportunity to accept the unit offered or remain in the current unit. AHA will document the outcome of the meeting and provide a written summary to the resident and place a copy in the resident’s file.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

AHA Policy

Good cause for refusal of a unit offer includes reasons related to health, disability, proximity to work, school, and childcare (for those working or going to school).

Refusals due to location alone do not qualify for good cause exemption. AHA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

AHA Policy

If subject to deconcentration requirements, AHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the EIR will be offered a unit in a development that is below the EIR, and vice versa, to achieve AHA’s deconcentration goals. A deconcentration offer will be considered a “bonus” offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

CHAPTER 13

LEASE TERMINATIONS

INTRODUCTION

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

Likewise, there are safeguards to protect HUD's interest in the public housing program. AHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify when termination of the lease is mandatory by AHA.

When determining AHA policy on terminations of the lease, AHA must consider state and local landlord-tenant laws in the area where AHA is located. , Such laws could vary from one location to another and these variances may be either more or less restrictive than federal law or HUD regulations.

This chapter presents the policies that govern both the family's and AHA's termination of the lease voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by AHA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the AHA's requirements for voluntary termination of the lease by the family.

Part II: Termination by AHA - Mandatory. This part describes circumstances when termination of the lease by AHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by AHA – Other Authorized Reasons. This part describes AHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes AHA to terminate. For some of these options, HUD requires AHA to establish policies and lease provisions for termination, but termination is not mandatory.

For other options, AHA has full discretion whether to consider the options as just cause to terminate as long as AHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that AHA may consider in lieu of termination, and criteria AHA will use when deciding what actions to take.

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

PART I: TERMINATION BY TENANT

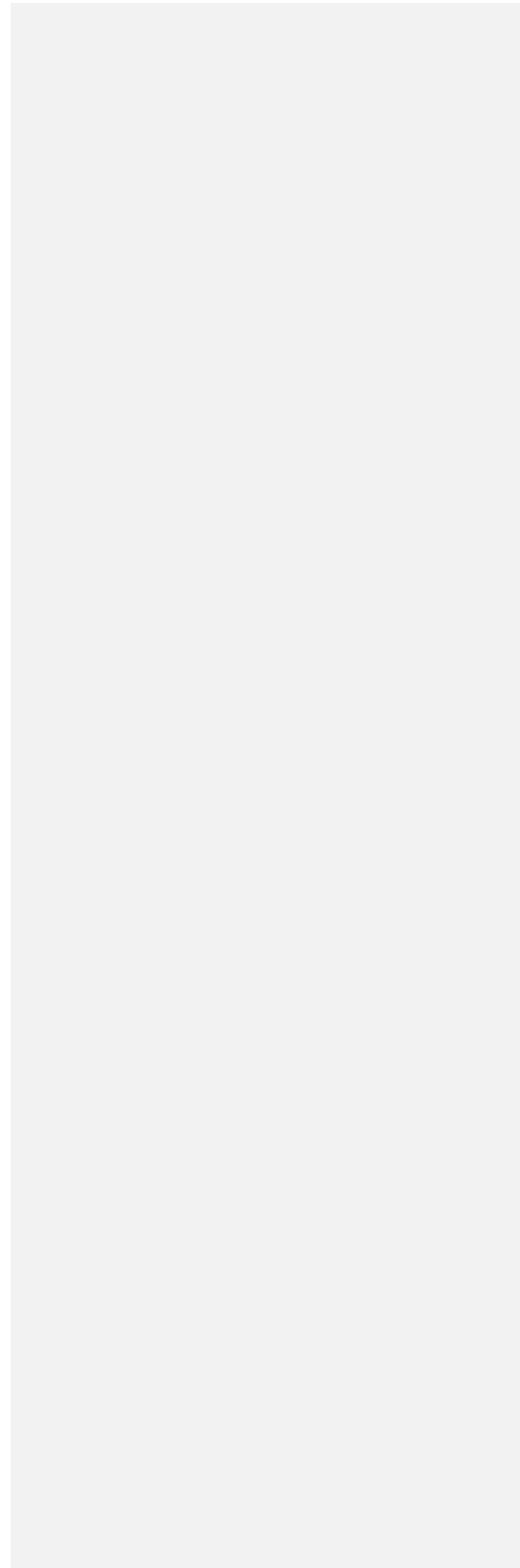
13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or sent by pre-paid first-class mail, properly addressed.

AHA Policy

If a family desires to move and terminate their tenancy, they must give at least 30 calendar days' advance written notice to AHA of their intent to vacate. If the tenant vacates prior to the end of the thirty (30) days, they will be responsible for rent through the end of the notice period or until the unit is re-rented, whichever occurs first.

The notice of lease termination must be signed by the head of household, spouse, or co-head.



PART II: TERMINATION BY AHA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. AHA must establish policies for termination of the lease in these cases where termination is optional for AHA.

For those tenant actions or failures to act where HUD requires termination, AHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires AHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

AHA must terminate the lease if any family member fails to sign and submit any consent form she/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

AHA must terminate the lease if (1) a family fails to submit required documentation within the required time frame concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by AHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c) and 24 CFR 960.259(a)(3), Notice PIH 2012-10]

AHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and AHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, AHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date AHA determined the family to be noncompliant.

AHA Policy

AHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline

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

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

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

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

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

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

See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should a AHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, AHA must immediately terminate assistance for the household member.

In this situation, AHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, AHA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24

CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

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

13-II.I. DEATH OF SOLE FAMILY MEMBER [NOTICE PIH 2012-10]

AHA must immediately terminate the lease following the death of the sole family member.

13-II.J. OVER_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, AHA must either:

- Terminate the family's tenancy within six months of AHA's final notification of the end of the 24-month grace period; or
- Within 60 days of AHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, AHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

AHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, AHA will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

Over-Income Limit [Notice PIH 2023-03]

AHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. [AHA Policy](#)

AHA will rely on the following over-income limits. These numbers will be updated upon HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	1	2	3	4	5	6	7	8
Over Income Limit	54,500	62,300	70,100	77,850	84,100	90,350	96,550	102,800

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, AHA determines that the family’s income is below the over-income limit, AHA’s over-income policies no longer apply to the family. If AHA later determines that the family’s income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

AHA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with AHA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. AHA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03] If AHA determines the family has exceeded the over-income limit during an annual or interim reexamination, AHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in AHA following its continued occupancy policy for over-income families. AHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time AHA’s determination that the family has exceeded the over-income limit. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD’s model notices.

AHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over income limit, within 10 business days of the determination, AHA will notify the family in writing of the determination. The notice will state that if the family continues to be over income for 24 consecutive months, the family will be subject to AHA's over-income policies. The notice will state that the family may request a hearing if the family disputes AHA's determination in accordance with AHA policies in Chapter 14. AHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

AHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless AHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when AHA makes an initial determination that a family is over-income during an interim reexamination. In this case AHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for AHA policies on interims for over-income families.

If AHA determines the family continues to exceed the over-income limit for 12 consecutive months, AHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in AHA following its continued occupancy policy for over income families. Additionally, if applicable under AHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. AHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time AHA's determination that the family has exceeded the over-income limit. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

AHA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, AHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to AHA's over income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes AHA's determination in accordance with AHA policies in Chapter 14. O HA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]

Unless AHA determined the family's income fell below the over-income limit since the second over-income determination, AHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When AHA makes an initial determination that a family is over-income during an interim reexamination, AHA must conduct an 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.

If the family continues to be over-income based on this determination, AHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that AHA will follow its continued occupancy policies for over-income families. AHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time AHA's determination that the family has exceeded the over-income limit. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

AHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, AHA will notify the family in writing of the determination within 10 business days of the date of the determination. AHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative nonpublic housing rent in accordance with AHA continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and AHA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. AHA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays AHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. AHA will not provide such families with hearing or grievance rights.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, AHA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by AHA in accordance with HUD regulations. AHA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.

PART III: TERMINATION BY AHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring AHA to terminate the lease under the circumstances described in Part II, HUD requires AHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require AHA to terminate for such violations in all cases. AHA has the discretion to consider circumstances surrounding the violation or in applicable situations AHA may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes AHA to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. AHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

In the development of the terms of the lease, AHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of

variations in state and local landlord-tenant law, and because HUD affords AHA wide discretion in some areas, a broad range of policies could be acceptable. AHA also has the option to terminate the tenancies of certain over income families.

AHA may consider alternatives to termination and must establish policies describing the criteria AHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps AHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5), Notice PIH 2015-19]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations..

***Definitions* [24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

- *Affiliated individual* is defined in section 16-VII.B.
- *Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- *Criminal Record* means any record or report compiled by a local, state, or federal law enforcement agency containing information related to a person's involvement in criminal activity. These records include, but are not limited to police reports, arrest reports, conviction records, or other information maintained by law enforcement through a database.
- *Criminal Conviction Record* means a record obtained from the California Law Enforcement Telecommunication System (CLETS) of the National Crime Information Center (NCIC) which contains criminal conviction information.
- *Dating violence* is defined in section 16-VII.B.
- *Domestic violence* is defined in section 16-VII.B
- *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
- *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

- *Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- *Household* means the family and an AHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].
- *Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.
- *Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- *Prohibited tobacco products* are defined as products requiring the ignition of tobacco, such as (but not limited to) cigarettes, cigars, pipes, hookahs, water pipes, as well as Electronic Nicotine Delivery System (ENDS) such as, but not limited to, e-cigarettes, personal vaporizers, vape pens, e-cigars, e-hookahs, and vaping devices.
- *Restricted areas* are public housing dwelling units (except those in a mixed-finance project), public housing administrative office buildings, public housing community rooms or community facilities, public housing day care centers and laundry rooms, and all outdoor areas up to 25 feet from the buildings or units for which this policy is applicable.
- *Sexual assault* is defined in section 16-VII.B.
- *Stalking* is defined in section 16-VII.B.
- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime on and/or about the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

AHA Policy

AHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

AHA will consider all credible evidence, including but not limited to, any record convictions of covered persons related to the drug-related criminal activity.

While AHA may 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.

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that AHA may evict a family when AHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

AHA Policy

AHA will terminate the lease when AHA determines that a household member is illegally using a drug or AHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

AHA will consider all credible evidence, including but not limited to, any record of convictions of household members related to the use of illegal drugs.

While AHA may 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.

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including AHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

AHA Policy

AHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, AHA employees, contractors, or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

AHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

AHA may not base a determination that a household engaged in criminal activity warranting termination of assistance or eviction on a record of arrest(s).

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

AHA will terminate the lease if AHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

AHA will consider all credible evidence, including but not limited to, any record of convictions of household members related to the abuse of alcohol.

While AHA may 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.

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

AHA will terminate the lease if it determines that a household member has furnished false or misleading information concerning illegal drug use or alcohol abuse

AHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f), Instituting Smoke-Free Public Housing Rule FR-5597-F-03]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

AHA Policy

AHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12month period shall constitute a repeated late payment as articulated in section 8(A)(5) of AHA rental agreement.

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- Not to provide accommodations for boarders or lodgers
- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose
- To abide by necessary and reasonable regulations promulgated by AHA for the benefit and well-being of the housing project and the tenants, which shall be posted in the project office and incorporated by reference in the lease
- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety
- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition
- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner
- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

Any smoking of prohibited tobacco products in any units covered by 24 CFR 965, subpart G, in any restricted areas, as defined by 24 CFR 966.656(a), or in other outdoor areas that AHA has designated as smoke-free.

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes AHA to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that AHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit AHA to only those examples. The Violence Against Women Act explicitly prohibits AHA from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as “other good cause” for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such violence as provided in the regulations [24 CFR 5.2005(c)(1)]. [AHA Policy](#)

AHA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violates a condition of probation or parole imposed under federal or state law

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for AHA to make determinations with respect to rent, eligibility and the appropriateness of dwelling size that may include annual and interim recertification and any other AHA required inspections

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by AHA that such a dwelling unit is available

Failure to permit access to the unit by AHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform AHA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of AHA pet policy

Failure to comply with any material provision of an AHA Use of Space License Agreement pertaining to temporary relocation

If the family has breached the terms of a repayment agreement entered into with AHA

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises

If a household member has engaged in or threatened violent, criminal, or abusive behavior toward AHA personnel or contractors.

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

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

In making its decision to terminate the lease, AHA will consider alternatives as described in Section 13-III.D and other factors described in Section 13-III.E. Upon consideration of such alternatives and factors, AHA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, AHA has a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

AHA Policy

The family must supply any information or certification requested by AHA to verify that the family is living in the unit, or relating to family absence from the unit, including any AHA-requested information or certification on the purposes of family absences. The family must cooperate with AHA for this purpose.

The family must promptly notify AHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case, *promptly* means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, AHA will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, AHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit.

AHA Policy

AHA will consider a unit to be abandoned when a resident has both fallen behind in rent and has clearly indicated by words or action an intention not to continue living in the unit. If necessary, AHA will secure the unit immediately to prevent vandalism and other criminal activity

When a unit has been abandoned, AHA will comply with Code of Civil Procedure sections 1980 *et seq.* in disposition of any property left at the rental dwelling.

Over-Income Families [24 CFR 960.507; FR6057-F-03]

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded the over income limit, which is set by multiplying the very low-income level for the applicable area by a factor of 2.4, equal to 120 percent of area median income (AMI), for 24 consecutive months, AHA must either terminate the family's tenancy within six months of the determination, or execute a Non-Public Housing Over Income (NPHOI) Lease within 60 days and charge the family the alternative non-public housing rent, as defined in 960.102. Over-income provisions apply to all families in the Public Housing Program, even those in the FSS program, 960.507(a)(1).

Pursuant to 960.507(c), AHA must notify the family in writing of their over-income status three times:

1. Initial Notification- at determination of over-income status,
2. Second Notification- after 12 consecutive months of over-income status which must contain the estimated alternative rent than NPHOI family must pay,

3. Third and final notification- after 24 consecutive months of over-income status.

Families may request a hearing within a reasonable time (10 days) if there is a dispute of overincome status, pursuant to 24 CFR 966(b).

If, at any time, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with AHA policy. If it is determined the previously over-income family is now below the over- income limit, the family is no longer subject to over-income provisions as of the effective date of the interim recertification. AHA will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new 24-month grace period, as stated in 960.507(c)(4).

If an over-income household chooses to terminate their tenancy the lease shall convert to a month-to-month term in accordance with 966.4(2)(iii) and will continue to be public housing program participants. PHAs must charge participants their choice of incomebased, flat rent, or prorated rent for mixed families during the period (up to 6 months) before termination. During that time, the family may request an interim reexamination of income to potentially reduce their rent burden. However, the resulting income determination will not make the family eligible to remain in the PHP beyond the period before termination.

AHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, AHA will document the family file and begin tracking the family's over-income status. Once a family is identified as over-income, AHA must notify the family in writing of their over-income status. Pursuant to 960.507(c), once AHA determines a family to be over-income, even if they are paying a flat rent, AHA must conduct a reexamination of family income annually instead of once every three years.

Once a family has been over-income for 24 consecutive months AHA will send a third and final notice within 30 days of determination, in accordance with 960.507(c)(3). The notice will explain that families must pay the alternative nonpublic housing rent, amount stated in the notice, as determined in accordance with 960.102, and be classified as a Non-Public Housing Over Income Family, or have their tenancy terminated in no more than 6 months, 960.507(d). The alternative non-public housing rent will be adjusted annually. The new NPHOI lease, with no greater than a 12-month term, must be executed within 60 days of the date of the notice, or at the next lease renewal, whichever is sooner. If an NPHOI lease is not executed within 60 days, AHA must terminate the tenancy of the family no more than 6 months after the notification.

AHA will not evict or terminate the tenancies of families whose income exceeds the income limit for program eligibility as described at 24 CFR 960.507, so long as there are no other lease compliance issues. AHA will allow for over-income

families to sign NPHOI leases. NPHOI families will not be considered public housing residents, and therefore will not be required to comply with the Community Service and Self-Sufficiency Requirements, per 960.600, NPHOI families must comply with the terms of the NPHOI lease.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse, HUD provides that AHA may consider exclusion of the culpable household member. Such an alternative can be used, by AHA, for any other reason where such a solution appears viable.

Additionally, under the Violence against Women Act (VAWA), AHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

AHA Policy

AHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon AHA's request.

Repayment of Family Debts

AHA Policy

If a family owes past monetary amounts to AHA, as a condition of continued occupancy, AHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from AHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

If AHA has grounds to terminate a tenancy it is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits AHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

AHA Policy

AHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that AHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

AHA Policy

AHA will consider the following circumstances before deciding whether to terminate the lease for any of the HUD-required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents safety or peaceful and quiet enjoyment property
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities or (as discussed further in section 13-II.F) a victim of domestic violence, dating violence, sexual assault or stalking.”
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of AHA’s failure to terminate the tenancy

- The effect of AHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

While AHA may not base a determination that a household engaged in criminal activity warranting 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 participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

For-Cause Eviction Guidelines

The For-Cause Eviction Guidelines are intended for use by AHA's Property Management staff to the implement existing AHA occupancy policies regarding tenant evictions for causes such as drug-related, nuisance, weapons-related and/or violent criminal activities. These guidelines apply to criminal activities that threaten the health, safety or right to peaceful enjoyment of the premises by other residents...

These guidelines are consistent with t h e AHA's commitment to make every reasonable effort to promote safer public housing communities and assure that residents are given legitimate opportunities for successful program participation.

The decision whether to initiate proceedings to terminate tenancy in all For-Cause evictions remains a matter of judgment. Staff of AHA will consider all circumstances with each individual case.

The Executive Director for the Office of Property Operations or his designee is required to review all For-Cause Evictions.

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes AHA to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

AHA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, AHA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose AHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program

Reasonable Accommodation [24 CFR 966.7]

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

AHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, 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 consider only accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

AHA's eviction actions are consistent with fair housing and equal opportunity provisions of 24CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section addresses the protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements and AHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this policy, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1) , FR Notice 8/6/13].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

VAWA prohibits a AHA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit the authority of AHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as AHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(3) and 24 CFR 5.2003].
- VAWA does not limit the authority of AHA to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault or stalking if AHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk

- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, AHA must have objective evidence of works, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a AHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

AHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, AHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or a tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest AHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

AHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, AHA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this plan.

AHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. AHA will do so without regard to other protected class, such as race, color, religion, sex/gender, gender identity, sexual orientation, or marital status. In such cases AHA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator Domestic Violence

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives AHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on AHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming AHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if AHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that AHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

AHA Policy

AHA will bifurcate a family's lease and terminate the tenancy of a family member if AHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, AHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to AHA by the victim in accordance with this section and section 16-VII.D. AHA will also consider the factors in section 13.III.E Upon such consideration, AHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If AHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, AHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, AHA must provide the tenant reasonable

time to find new housing or to establish eligibility for another housing program covered by VAWA.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes AHA to conduct criminal records checks on public housing residents for lease enforcement and eviction. AHA policy determines when AHA will conduct such checks.

AHA Policy

AHA may conduct criminal records checks when it has come to the attention of AHA, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. A In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

All criminal record checks will be conducted in conjunction with a current criminal investigation, and information will be provided to staff on a “needs-to-know, right-to-know” basis.

If the records check is not tied to a current investigation, AHA may obtain an individual’s criminal record from the Alameda County Consolidated Criminal Records Office (CCR), 15001 Foothill Blvd, San Leandro, CA. 94578, and (510) 667-3190.

In order to obtain such information, all adult household members may be required to sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

AHA will not pass along to the tenant the costs of a criminal records check.

**13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f),
24
CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]**

In conducting criminal records checks, if AHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases, if AHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, AHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

AHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, AHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information. If the household requests a copy of their summary criminal history record to dispute allegations, the household shall be directed to Alameda County Consolidated Criminal Records Office (CCR),

The family will be given 10 business days from the date of AHA notice to dispute the accuracy and relevance of the information. If the family does not contact AHA to dispute the information within that 10 business day period, AHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

AHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of AHA notice, to dispute the accuracy and relevance of the information. If the family does not contact AHA to dispute the information within that 10 business day period, AHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine AHA documents directly relevant to the termination or eviction. If AHA does not make the documents available for examination upon request by the tenant, AHA may not proceed with the eviction [24 CFR 996.4(m)].

When AHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with AHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed. When AHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by AHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of AHA, or for a drug-related criminal activity on or off the premises.

AHA Policy

AHA will serve all notices of lease termination in compliance with Code of Civil Procedure section 1162.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act (VAWA) for victims of domestic violence, dating violence, sexual assault, or stalking (see section 16-VII.C). AHA will also include a copy of the form HUD-50066 and a notice of VAWA rights to accompany the termination notice. Any tenant who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

AHA must give written notice of lease termination of:

- Fourteen (14) calendar days in the case of failure to pay rent

- Three (3) calendar days notice considering the seriousness of the situation (but not to exceed 30 calendar days)
- If the health or safety of other residents, AHA employees, contractors, or persons residing in the immediate vicinity of the premises is threatened
- If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
- If any member of the household has been convicted of a felony
- Thirty (30) calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

AHA Policy

AHA will give written notice of 14 calendar days for nonpayment of rent. Additionally, AHA will give written notice of 3 calendar days for drug-related, weapons-related; violent criminal activity or any other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, AHA staff, contractors, or persons residing in the immediate vicinity of the premises; or if any member of the household has been convicted of a felony. For all other lease terminations, AHA will give 30 day's written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When AHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

AHA Policy

If, after receiving a notice of initial noncompliance, the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be

issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy. Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for pro-ration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with AHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for AHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. AHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

AHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, AHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, AHA will seek the assistance of the court to remove the family from the premises as per state and local law.

AHA may not proceed with an eviction action if AHA has not made available the documents to be used in the case against the family nor afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When AHA evicts an individual or family for criminal activity, including drug-related criminal activity, AHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

AHA Policy

A written record of every termination and/or eviction will be maintained by AHA at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – INITIAL NOTIFICATION FOR NPHOI FAMILY OPTION¹

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]

¹ This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincomefamilies/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

**OVER-INCOME FAMILY
INITIAL NOTIFICATION**

[NAME OF PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]

What if my family remains over-income in 24 consecutive months?

According to the Continued Occupancy Policy, your family may continue to reside in a public housing unit even if you remain over-income after 24 months. However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to stay in your unit after remaining over-income for 24 consecutive months, you will:

- Pay an "alternative non-public housing rent" (currently estimated at \$_____)
 - > The alternative rent is adjusted annually and subject to change.
 - > You will receive a notification with more details on what to expect next if you decide to remain in a public housing unit after 24 consecutive months of being over-income.
- Need to sign a new lease for Non-Public Housing Over-Income (NPHOI) families.
 - > The NPHOI lease will need to be signed no later than 60 days after receiving notification of the end of the 24-month grace period or at the next lease renewal, whichever is sooner.

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-1: INITIAL NOTIFICATION FOR OVER-INCOME FAMILIES

HOUSING AUTHORITY OF THE CITY OF ALAMEDA

«Site Name» «Site Address»

«Site Phone Number»

NOTIFICATION OF OVER-INCOME DETERMINATION

«Address»

Date:

Unit:

Resident:

Dear Head/Co-head,

According to your most recent reexamination on «First Over-Income Effective Date», your family's annual income of «Household Annual Income» has exceeded the overincome limit. As mandated by the Housing Opportunity through Modernization Act of 2016 (HOTMA), the Department of Housing and Urban Development (HUD) established an income limitation for continued occupancy in the Public Housing program (24 CFR 960.261). At the time of an interim or annual reexamination, households with a total annual income exceeding the over-income limit will be subject to this rule. Over-income families are given a grace period of two (2) consecutive years before paying a higher alternative rent equal to the greater of the Fair Market Rent (FMR) or the amount of federal subsidy for the unit.

The Housing Authority will schedule a review of your income in twelve (12) months to determine your status as an over-income household. If your household's annual income continues to exceed the over-income limit consecutively for the next two (2) years from the effective date of this notice, then you will start paying the higher alternative rent. However, at any time during this grace period, if your income falls below the over-income limit, then you will no longer be subject to the over-income rule.

IF YOUR HOUSEHOLD HAS A DECREASE IN INCOME OR CHANGE IN HOUSEHOLD COMPOSITION, PLEASE CONTACT YOUR MANAGEMENT OFFICE IMMEDIATELY AS THESE CHANGES MAY AFFECT YOUR OVER-INCOME STATUS.

This notice does not waive the Housing Authority's rights to pursue or to continue to pursue any legal action resulting from your default in the obligations under your rental agreement including, but not limited to unlawful detainer (eviction) action.

If you have any question about this notice or if you would like to dispute the accuracy of this information, please contact the management office at the number listed above.

Sincerely,

Management

EXHIBIT 13-2: SECOND NOTIFICATION FOR OVER-INCOME FAMILIES

HOUSING AUTHORITY OF THE CITY OF ALAMEDA

«Site Name» «Site Address»
«Site Phone Number»

NOTIFICATION OF OVER-INCOME STATUS

«Address»

Date:
Unit:
Resident:

Dear Head/Co-head,

Please be advised that there is no change in your family's over-income status. On «First Over-Income Effective Date», your household was determined to be an over-income family because your annual income exceeded the income limitation for continued occupancy in the Public Housing program. According to your most recent reexamination on «Second Over-Income Effective Date», your household's annual income continues to exceed the over-income limit.

As mandated by the Housing Opportunity through Modernization Act of 2016 (HOTMA), the Department of Housing and Urban Development (HUD) established an income limitation for continued occupancy in the Public Housing program (24 CFR 960.261). An over-income family whose income continues to exceed the over-income limit for two (2) consecutive years must pay the higher alternative rent at the end of the grace period.

We will schedule a final income review in twelve (12) months to re-determine your family's over-income status. If your income falls below the over-income limit, then you will no longer be subject to the over-income rule. However, if there is no change and your annual household income continues to exceed the over-income limit in the next twelve (12) consecutive months, you will be obligated to pay the higher alternative rent.

The alternative rent is equal to the greater of the published Fair Market Rent (FMR) or the amount of monthly subsidy for the unit. Please refer to the chart below for an **estimate** of your new rent. These figures will change according to HUD's annually published FMR and subsidy amount.

Bedroom Size	Estimate Alternative Rent
Efficiency	\$1,825
1	\$2,131
2	\$2,590
3	\$3,342
4	\$3,954

IF YOUR HOUSEHOLD HAS A DECREASE IN INCOME OR CHANGE IN HOUSEHOLD COMPOSITION, PLEASE CONTACT YOUR MANAGEMENT OFFICE IMMEDIATELY AS THESE CHANGES MAY AFFECT YOUR OVER-INCOME STATUS.

This notice does not waive the Housing Authority's rights to pursue or to continue to pursue any legal action resulting from your default in the obligations under your rental agreement including, but not limited to unlawful detainer (eviction) action.

If you have any question about this notice or if you would like to dispute the accuracy of this information, please contact the management office at the number listed above.

Sincerely,

Management

APPENDIX 13.1 AHA FOR-CAUSE EVICTION GUIDELINES

For-Cause Eviction Guidelines

The For-Cause Eviction Guidelines are intended for use by AHA's staff in the implementation of existing AHA occupancy policies regarding tenant evictions for causes such as drug-related, weapons-related and/or violent criminal activities that threatens the health and safety or right to peaceful enjoyment of the premises by other tenants. These guidelines do not apply to cases that involve only the failure to pay rent or maintenance charges.

The guidelines are consistent with AHA's commitment to make every reasonable effort to promote safer public housing communities and assure that residents are given legitimate opportunities for successful program participation.

The decision whether to initiate proceedings to terminate tenancy in all For-Cause Evictions remains a matter of judgment. Staff of AHA will consider all circumstances with each individual case.

The Executive Director for the Office of Property Operations or his/her designee is required to review all For-Cause Evictions.

Objective

The guidelines are used by AHA staff to meet a series of objectives in weighing the variety of factors and considerations involved in responding to a lease violation. When in conflict, AHA will attempt to meet the objectives in order of importance. The order of importance of the objectives is as follows:

- Protecting the residents of public housing, their neighbors, AHA staff, and others who work or visit AHA property from the negative impact and influences of drugs and other crimes
- Preventing behavior and acts that seriously damage or destroy AHA property, place such property at risk, or render it unsuitable for the purpose of providing safe and decent housing
- Preserve the tenancy and provide residents an opportunity to learn from mistakes that can be remediated.

Types of "For-Cause" Evictions

In general, lease violations that may result in "For-Cause" evictions can be divided into three areas, with the first being the most serious and the third being the least serious.

- Crime is related to use, sale or manufacture of drugs; involves a weapon; is violent; or poses an immediate threat to health and safety.
- Crime is not related to drugs, does not involve a weapon, is not violent and does not pose an immediate threat.
- Lease violation - no crime involved

Circumstances of Lease Violation

In all cases, a review is to be made of all circumstances of the event or events. Further considered is to be given to the other related issues that follow:

- Who was the person involved?
 - Head of household or Co-tenant
 - Household member
 - Guest
- Did the head of household or co-tenant know of the incidents or involvement?
- Have there been any prior incidents of a similar nature?
- Has there been any counseling or warning given to the head of household and/or co-tenant?
- Has there been any involvement of social services providers to the family?
- Would intervention by social services providers be appropriate?
- What have been the consequences for other residents in the unit and neighbors of AHA property?
- What are the likely consequences for other residents in the unit and neighbors of AHA property?

Counseling, Warning, And Supportive Services Needs Assessment

A meeting is to be held with the head or co-tenant in which the incidents and consequences are to be discussed. Following the discussion, a written summary of the discussion, including any warning and any instructions and expectations is to be sent to the head and co-tenant with copies to the tenant file along with any other appropriate documentation. If warranted by the serious nature of the incident, by the threat to other residents or neighbors, by the number of incidents, or by the history of incidents, either a three-day or thirty-day notice is to be prepared and served.

Any counseling meeting described in this section does not apply to any case type except for criminal activities that threaten the health, safety or right to peaceful enjoyment of the premises by other tenants.

When determined to be appropriate, the Property Manager/Property Administrator/Assistant Property Administrator (PM/PA/APA) will coordinate with the Resident & Community Services Department to arrange the appropriate supportive services in response to the family's needs.

Types of Notices Three (3)-Day Notice

Three (3)-Day Notices are warranted in the event of drug-related, weapon-related, and/or violent criminal acts, or lease violations which pose an immediate threat to the health and safety of other residents, AHA staff or surrounding neighbors, committed by the Head of Household or Co-tenant, which are substantiated with verifiable evidence.

Thirty (30)-Day Notice

Thirty (30)-Day Notices are appropriate for all other matters as described above when eviction is warranted.

File Review and Approval

The Property Management personnel prepares a case outline in chronological order.

The Assistant Director consults with the Property Management personnel and will review all relevant information and forward the file to the Staff Attorney. .

The Staff Attorney will meet with Director of Property Management and make recommendation to the Executive Director

The Executive Director or designee reviews all recommendations regarding For- Cause evictions. Only after receiving the Executive Director written approval shall such cases be filed. The Staff Attorney will handle all legal inquiries pertaining to unlawful detainer matters.

Executive Director Review

In the event that the Executive Director and his designee and the Authority's legal representative disagree on the course of action regarding a particular case, the file will be forwarded to the Executive Director for final decision.

CHAPTER 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to AHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Non-citizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

Part III: Grievance Policy for Public Housing Residents. This part outlines the requirements and policy for handling grievances for public housing residents.

Note that this chapter is not AHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that govern the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When AHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses AHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded to AHA residents. [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

AHA will offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission.

Informal reviews are not required for the following circumstances [24 CFR 982.554(c)]:

- Discretionary administrative determinations by AHA
- General policy issues or class grievances
- A determination of the family unit size under AHA subsidy standards
- Failure to respond to waiting lists update requests in writing within the specified timeframes

Notice of Denial [24 CFR 960.208(a)]

AHA must give an applicant prompt notice of a decision denying eligibility for admission.

The notice must contain a brief statement of the reasons for AHA decision, and must also

state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, 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 Reauthorization Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.F. for details concerning this requirement.

Scheduling an Informal Hearing

AHA Policy

A request for an informal hearing must be made in writing and delivered to AHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of AHA's notification of denial of admission.

AHA must schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

AHA Policy

The informal hearing will be conducted by a person or persons designated by the Department Director. The designee must be a person other than the person who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of AHA.

The person conducting the hearing will make the determination whether the admission should be granted or denied.

The person conducting the informal hearing will make a recommendation to grant or deny admission and for denials AHA may elect to have the recommendation reviewed by the Executive Director or a designee for final determination on admission.

Informal Hearing Decision [PH Occ GB, p. 58]

AHA Policy

AHA will notify the applicant of AHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, AHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in AHA policy, then the decision to deny assistance will be overturned. (See Chapter 3 for a detailed discussion of the grounds for applicant denial.)
- The validity of the evidence that AHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, AHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, AHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

AHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within

10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume. If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and AHA must consider such accommodations. AHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. (See Chapter 2 for more detail pertaining to reasonable accommodation requests.)

PART II: INFORMAL HEARINGS WITH REGARD TO NON-CITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while AHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or AHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for non-citizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with AHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing

process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When AHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, AHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide AHA with a copy of the written request for appeal and proof of mailing.

AHA Policy

AHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide AHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to AHA, of its decision. When the USCIS notifies AHA of the decision, AHA must notify the family of its right to request an informal hearing.

AHA Policy

AHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that AHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of AHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

AHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of AHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

AHA Policy

The family must request discovery of AHA documents no later than 48 hours prior to the Informal hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by AHA, and to confront and cross-examine all witnesses on whose testimony or information AHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or AHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, AHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. AHA may, but is not required to provide a transcript of the hearing.

AHA Policy

AHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

AHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

AHA must retain for a minimum of 5 years the following documents that may have been submitted to AHA by the family, or provided to AHA as part of the USCIS appeal or AHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that AHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of AHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

AHA must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any AHA action or failure to act involving the lease or AHA policies which adversely affect their rights, duties, welfare, or status. AHA may establish an expedited grievance procedure as defined in 24 CFR 966.53. AHA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

AHA grievance procedure must be included in, or incorporated by reference in, the lease.

AHA Policy

AHA grievance procedure will be incorporated by reference in the resident lease. AHA must provide at least 30 days' notice to residents and the Resident Advisory Board setting forth proposed changes to AHA grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by AHA before adoption of any grievance procedure changes by AHA.

Residents and the Resident Advisory Board will have 30 calendar days from the date they are notified by AHA of any proposed changes in AHA grievance procedure, to submit written comments to AHA.

AHA must furnish a copy of the grievance procedure to each resident and to the Resident Advisory Board.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)] Section 15.0

Grievance Policy

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to AHA action or failure to act in accordance with the individual resident's lease or AHA regulations which adversely affect the individual resident's rights, duties, welfare or status

- **Complainant** – any resident whose grievance is presented to AHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
 - b. Right of the resident to be represented by counsel
 - c. Opportunity for the resident to refute the evidence presented by AHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have
 - d. A decision on the merits
- **Expedited grievance** – a procedure established by AHA for any grievance concerning a termination of tenancy or eviction that involves:
 - 1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of AHA’s public housing premises by other residents or employees of AHA; or
 - 2) Any drug-related or violent criminal activity on or off such premises.
- **Hearing Officer**– an impartial person or persons selected by AHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training.
- **Resident** – the adult person (or persons) (other than a live-in aide)
 - a. Who resides in the unit, and who executed the lease with AHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - b. Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of AHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to AHA. It is not applicable to disputes between residents not involving AHA. Class grievances are not subject to the grievance procedure nor is said grievance procedure to be used as a forum for initiating or negotiating policy changes of AHA.

If HUD has issued a due process determination, AHA may exclude from AHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of AHA
- Any violent or drug-related criminal activity on or off such premises

AHA may evict through the local judicial eviction procedures. In this case, AHA is not required to provide the opportunity for a hearing under AHA's grievance procedure as described above.

AHA Policy

AHA is located in a HUD-declared due process state. Therefore, AHA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of AHA, or for violent or drug-related criminal activity on or off the premises, or criminal activity.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

Any grievance shall be personally presented within the time specified by written notice from AHA, or, if no such time is specified, within thirty (30) days of an AHA action or failure to act giving rise to the dispute. The grievance must be presented in writing on a pre-printed form supplied by AHA, or in any other written form chosen by the resident, or orally. The presentation of the grievance shall be made to AHA district office with jurisdiction for the apartment in which the grievant resides. An attempt will be made to settle the grievance informally, by discussion and without a hearing. A summary of the discussion shall be prepared within five (5) work days. One copy shall be given to the grievant and one retained in AHA's resident file. The summary shall specify:

- The names of the participants

- Dates of meeting
- The nature of the proposed disposition of the complaint and the specific reasons,
- The procedures by which a grievant can obtain a hearing if the grievant is not satisfied with the informal settlement of grievance..

AHA Policy

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, AHA may request documentation of the “good cause” prior to rescheduling the hearing. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a resident fails to attend the scheduled meeting, and was unable to reschedule the hearing in advance due to the nature of the conflict, the tenant must contact AHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. AHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

AHA Policy

The resident must submit a written request for a grievance hearing to AHA within 10 business days of the resident's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, AHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest AHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and AHA and held before a hearing officer. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate AHA official.

AHA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and AHA.

AHA may wish to permit the resident to request to reschedule a hearing for good cause.

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, AHA may request documentation of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person appointed by the Executive Director or designee, other than the person who made or approved AHA action under review, or a subordinate of such person. AHA must describe their policies for selection of a hearing officer in their lease.

AHA Policy

AHA grievance hearings will be conducted by a single hearing officer and not a panel. A Hearing Officer will be designated by the Executive Director or the Deputy Executive Director for Public Housing. Eligible AHA Hearing Officers will include qualified current

staff persons, former AHA employees, professional arbitrators, or personnel from other AHA who have received training on hearing procedures.

Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

AHA must include their policies regarding the hearing officer selection process in the tenant lease form. [24 CFR 966.4].

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any AHA documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such documents. If AHA does not make the document available for examination upon request by the complainant, AHA may not rely on such document at the grievance hearing.

AHA Policy

The family must request discovery of AHA documents no later than 48 hours prior to the grievance hearing.

- The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf.

Hearings may be attended by the following applicable persons: AHA representative(s) and any witnesses for AHA, the resident, and any witnesses for the resident; the resident's counsel or other representative, and; any other person approved by AHA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by AHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information AHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or AHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period no more than five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and AHA must be notified of the determination by the hearing officer, provided that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest AHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

AHA Policy

If the resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the resident appears within 30 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact AHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

“Good cause” is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(d) (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter AHA must sustain the burden of justifying AHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer/panel. AHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

AHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to AHA. Writings include all forms of recorded communication or representation,

including letters, emails, words, pictures, sounds, videotapes or symbols, or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If AHA fails to comply with the discovery requirements (providing the resident with the opportunity to examine AHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of AHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or AHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

AHA Policy

AHA will record all Informal Hearings. The audio tape is available upon request.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

AHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident that is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of AHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g))

AHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.H. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and AHA. AHA must retain a copy of the decision in the resident's folder. AHA must maintain a log of all hearing officer decisions and make that log available upon request of a prospective complainant, his/her representative, or the hearing officer [24 CFR 966.57(a)].

AHA Policy

In rendering a decision, the hearing officer will consider the following matters:

AHA Notice to the Family: The hearing officer will determine if the reasons for AHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with AHA policy.

AHA Evidence to Support AHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support AHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and AHA policies. If the grounds for termination are not specified in the regulations or in compliance with AHA policies, then the decision of AHA will be overturned.

The hearing officer will issue a written decision to the family and AHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing
Name of the hearing officer

Name of AHA representative(s)

Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold AHA's decision.

Order: The hearing report will include a statement of whether AHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct AHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct AHA to restore the family's status.

Procedures for Further Hearing

AHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of AHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer shall be binding on AHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless AHA Board of Commissioners determines, that:

- The grievance does not concern AHA action or failure to act in accordance with or involving the complainant's lease on AHA regulations, which adversely affect the complainant's rights, duties, welfare or status;
- The decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and AHA;

AHA Policy

When AHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the Executive Director or his or her designee within 10 business days of the date of the hearing officer's decision. If the Executive Director or his or her designee decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer, or the Executive Director or his or her designee in favor of AHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court. [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

AHA is committed to ensuring that funds made available to AHA is spent in accordance with HUD requirements.

This chapter covers HUD and AHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents AHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures AHA must and may take when errors or program abuses are found.

PART I - PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

AHA Policy

AHA anticipates that the vast majority of families and AHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that AHA's program is administered effectively and according to the highest ethical and legal standards, AHA will employ a variety of techniques to make sure that both errors and intentional program abuse are rare.

AHA will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

AHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. AHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

AHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

AHA staff will be required to review and explain the contents of all HUD- and AHA-required forms prior to requesting family member signatures.

AHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key AHA forms and form letters that request information from a family member.

AHA will provide each AHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, AHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

AHA Policy

AHA will employ a variety of methods to detect errors and program abuse, including: AHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

AHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all AHA that expend \$500,000 or more in federal awards annually to have an independent audit (“IPA”). In addition, HUD conducts periodic on-site and automated monitoring of AHA activities and notifies AHA of errors and potential cases of program abuse.

AHA Policy

AHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of AHA’s error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

AHA Policy

AHA will encourage staff, residents and the public to report possible program abuse

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When AHA Will Investigate

AHA Policy

AHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for AHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

AHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

AHA may investigate possible instances of error or abuse using all available AHA and public records. If necessary, AHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

AHA Policy

AHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation, AHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed AHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether AHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

AHA Policy

In the case of family-caused errors or program abuse, AHA will take into consideration:

- (1) the seriousness of the offense and the extent of participation or culpability of individual family members,
- (2) any special circumstances surrounding the case,
- (3) any mitigating circumstances related to the disability of a family member,
- (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

AHA Policy

AHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include

- (1) a description of the error or program abuse,
- (2) the basis on which AHA determined the error or program abuses,

- (3) the remedies to be employed, and
- (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect resident rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, AHA must promptly correct the resident rent and any utility reimbursement prospectively.

AHA Policy

Increases in the resident rent will be implemented only after the family has received 30 days notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse AHA or AHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect

reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows AHA to use incorrect information provided by a third party. Refer 15- I C Notice and Appeals.

Family Reimbursement to AHA

AHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. AHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, AHA will terminate the family's lease in accordance with the policies in Chapter 13.

AHA Reimbursement to Family

AHA Policy

AHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to AHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to AHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

AHA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to AHA Board of Commissioners, employees, contractors, or other AHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to AHA on the family's behalf Use of a false name or the use of falsified, forged, or altered documents Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

AHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family AHA may, at its discretion, impose any of the following remedies.

- AHA may require the family to repay any amounts owed to the program (see 15II.B., Family Reimbursement to AHA).
- AHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- AHA may deny admission or terminate the family’s lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- AHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. AHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of AHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of an AHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in AHA personnel policy.

AHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

AHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where AHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

AHA must take corrective action to credit or repay a family if the family was overcharged rent, including when AHA makes de minimis errors in the income determination. Families will not be

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required to repay AHA in instances where AHA miscalculated income resulting in a family being undercharged for rent. AHA state in its policies how it will repay or credit a family the amount they were overcharged as a result of AHA's de minimis error in income determination. AHA Policy

AHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities AHA Policy

Any of the following will be considered evidence of program abuse by AHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to AHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of AHA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to

the public housing program

- Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

AHA Policy

When AHA determines that program abuse by a family or an AHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, AHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (“OIG”).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

AHA that enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that AHA recovers [Notice PIH 2005-7 (HA)].

If AHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through AHA’s grievance process.

CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of AHA-furnished utilities.

Part II: Establishing Flat. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which AHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (“AHA”). This part describes AHA indicators, how AHA is scored under AHA, and how those scores affect AHA.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies AHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes AHA’s reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault and stalking; and maintaining the confidentiality of information obtained from victims.

Part VIII: Conflict of Interest Policy. This part describes AHA’s conflict of interest policies in connection with all AHA administered Section 8 programs.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

AHA must establish allowances for AHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

AHA must also establish surcharges for excess consumption of AHA-furnished utilities [24 CFR 965.506].

AHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

AHA must establish separate allowances for each utility and for each category of dwelling units AHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of AHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy- conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if AHA does not furnish a range, the family must be granted a utility allowance for the range they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and setting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy use [PH Occ GB, p. 138]. Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance about establishing utility allowances.

Utility Allowance Revisions [24 CFR 965.507]

AHA may use its current MTW utility allowance schedule at scheduled reexaminations.

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 annual reexamination after a new 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 allowance schedule

16-I.C. SURCHARGES FOR AHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for AHA-furnished utilities where check meters have been installed, AHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on AHA's average utility rate. The basis for calculating the surcharges must be described in AHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in AHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by AHA-furnished utilities where check meters have not been installed, AHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of AHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of AHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to AHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

AHA Policy

AHA does not have AHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

AHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

1. Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

2. Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
3. Notify residents of the place where AHA's documentation on which allowances and surcharges are based is available for inspection.
4. Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, AHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

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

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how AHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rents for mixed families are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 60.253(b) and Notice PIH 2017-23]

Establishing Flat Rents

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

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

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

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

- Location • Quality
- Unit size
- Unit type
- Age of the unit
- Amenities at the property and in immediate neighborhood

- Housing services provided
- Maintenance provided by AHA
- Utilities provided by AHA and/or landlord for (comparable units in the market study)
- AHA must provide a corresponding key explaining the calculations used for determining the valuation for each factor.

AHA must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2017-23.

AHA is now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, AHA must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, AHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

AHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, AHA will reduce flat rents to 80 percent of the current FMR/SAFMR.

Posting of Flat Rents

AHA Policy

AHA will publicly post the current Flat Rent Schedule on its web site and leasing offices.

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

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

PART III: FAMILY DEBTS TO AHA

16-III.A. OVERVIEW

Families are required to reimburse AHA if they were charged less rent than required because the family either underreported or failed to report income. AHA is required to determine retroactive rent amounts as far back as AHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes AHA's policies for recovery of monies owed to AHA by families.

AHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, AHA holds the family liable to return any underpayments to AHA. AHA will enter into repayment agreements in accordance with the policies contained in

this part as a means to recover underpayments. The term *repayment agreement* refers to a formal document signed by a tenant and provided to AHA in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to AHA, AHA will use other available collection alternatives including, but not limited to, the following:

1. Collection agencies
2. Small claims court
3. Civil law suits
4. State income tax set-off program

16-III.B. REPAYMENT POLICY Family Debts to AHA

AHA Policy

Any amount due to AHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, AHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, AHA will terminate the family's tenancy in accordance with the policies in Chapter 13. AHA will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

AHA Policy

Prior to or concurrent to the execution of a repayment agreement, the family must pay 25 percent of the balance owed to AHA.

Payment Thresholds Notice PIH 2017-12 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

AHA Policy

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family's MAI and the TTP at the time the agreement is executed \$25

If a family can provide evidence satisfactory to AHA that a monthly payment amount of \$25 would impose an undue hardship, AHA may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either AHA or the family may request that the monthly payment amount be adjusted accordingly.

Execution of the Agreement

AHA Policy

The head of household and spouse/co-head (if applicable) must sign and date the repayment agreement.

Due Dates

AHA Policy

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Any court stipulated agreement or court settlement agreement negotiated by AHA and a tenant shall supersede the policy articulated above if these types of negotiated agreements have a different payment date articulated in them.

Late or Missed Payments

AHA Policy

If a payment is not received by the end of the business day on the date due, it will be considered a breach of the repayment agreement and AHA will terminate the tenancy in accordance with the policies in Chapter 13.

Any court stipulated agreement or court settlement agreement negotiated by AHA and a tenant shall supersede the policy articulated above and this section shall not apply to these types of court agreements.

No Offer of Repayment Agreement

AHA Policy

AHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which AHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to AHA the monthly payment amount specified in the agreement but must also pay to AHA the monthly tenant rent

- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of PHAS is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

Under MTW Authority, AHA is not required to report through PHAS.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

AHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, AHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights and that comply with VAWA confidentiality requirements.

16-V.B. RECORD RETENTION

AHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

Notice PIH 2014-20 requires AHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

AHA must keep confidential records of all emergency transfers requested under AHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specified in program regulations [24 CFR 5.2002(E)(12)].

AHA Policy

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

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

1. An application from each ineligible family and notice that the applicant is not eligible Lead-based paint records as required by 24 CFR 35, Subpart B

2. Documentation supporting the establishment of flat rents and the public housing maximum rent
3. Documentation supporting the establishment of utility allowances and surcharges

4. Accounts and other records supporting AHA budget and financial statements for the program
5. Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule
6. Other records as determined by AHA or as required by HUD

7. Confidential records of all emergency transfers related to VAWA requested under AHA's Emergency Transfer Plan and the outcomes of such requests

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

AHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

AHA Policy

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

AHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers ("SSN"), employer identification numbers ("EIN"), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of federal, state, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or AHA may release the information collected.

AHA Policy

HA 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.

Up-front Income Verification (UIV) Records

PHAs that access UIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (EIV) System PHA Security Procedures*, Version 1.2, issued January 2005.

AHA Policy

Prior to using HUD's EIV system, AHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

AHA may only disclose the criminal conviction records which AHA receives from a law enforcement agency to officers or employees of AHA, or to authorized representatives of AHA who have a job-related need to have access to the information [24 CFR 5.903(e)]. AHA must establish and implement a system of records management that ensures that any criminal record received by AHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to AHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

AHA must establish and implement a system of records management that ensures that any sex offender registration information received by AHA from a state or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to AHA action without institution of a challenge or final disposition of any

such litigation. This requirement does not apply to information that is public information, or is obtained by AHA other than under 24 CFR 5.905.

Medical/Disability Records

AHA is not permitted to inquire about the nature or extent of a person’s disability. 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 should not place this information in the tenant file. AHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault or Stalking For requirements and AHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault or stalking, see section 16-VII.E.

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

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]; Notice PIH 2017-13]

AHA has certain responsibilities relative to children with environmental intervention blood lead levels who are living in public housing.

AHA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within 5 business days of being so notified by any other medical health care professional. AHA must also report each known case of a child with elevated blood lead level (EBLL) to the HUD field office.

AHA Policy

AHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

AHA will provide written notice of each known case of a child with an elevated blood level (EBLL) to the HUD field office and to HUD's Office of Lead Hazard Control (OLHCHH) within 5 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and AHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and AHA policies are located primarily in the following sections: Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D)

16-VII.B. DEFINITIONS [24 CFR 5.2003; FR Notice 8/6/13]

As used in VAWA:

- The term affiliated individual means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of that individual.
- The term bifurcate means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.

- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
 - Restrict a person's access to money, assets, credit, or financial information
 - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
 - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
 - Restrict a person's access to money, assets, credit, or financial information
 - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
 - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to: - Internet enabled devices

- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

AHA adopts the following policy to help ensure that all actual and potential beneficiaries of its Public Housing are aware of their rights under VAWA.

AHA Policy

AHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of AHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Residents [24 CFR 5.2005(a)(1)]

AHA is required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

AHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

AHA Policy

VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2.

AHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. AHA will also include such information in all notices of denial of assistance (see Section 3.III.F).

AHA will provide all participants with information about VAWA at the time of admission (see section 8-I.B). AHA will also include information about their rights under VAWA in notices of termination of assistance. (see section 13-IV.D).

AHA is not limited to providing VAWA information at the times specified in the above policy. If AHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases AHA make alternative delivery arrangements that will not put the victim at risk.

AHA Policy

Whenever AHA has reason to suspect that providing information about VAWA to a public housing resident might place a victim of domestic violence at risk, it will attempt to provide the information directly to the victim or by having victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary AHA may decide not to mail info regarding VAWA protections to the victims unit if AHA believes the perpetrator may have access to the victim's mail, unless requested to do so by the victim.

When discussing VAWA with the victim, AHA will take reasonable precautions to ensure that no one can overhear the conversation.

The victim may, but is not required, to designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. AHA may extend this time period at its discretion. AHA will allow for a 10-business day

The individual may satisfy AHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-5382 , Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking), which must include the name of the perpetrator, if the name is known and safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
2. A federal, state, tribal, territorial, or local law enforcement court or administrative record.
3. Documentation may be signed by the victim. or A person assisting the victim in addressing domestic violence, dating violence, sexual assault, or stalking or the effects of such abuse may also sign. This person may be an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional in which the professional attests under penalty of perjury to his or her belief that the victim has experienced an incident of domestic violence, dating violence, sexual assault or stalking that meets the grounds for protection under the statute.

AHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

AHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

AHA may, in its discretion, extend the deadline for 10 business days. Factors will be considered such as cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by AHA will be in writing.

Once the victim provides documentation, AHA will acknowledge receipt within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where AHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, AHA may determine which is the true victim by

requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). AHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to AHA. AHA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to AHA. If AHA does not receive third-party documentation, and AHA will deny or terminate assistance as a result, AHA must hold separate hearings for the tenants [Notice PIH 2017-08].

AHA Policy

If presented with conflicting certification documents (from members of the same household, AHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, AHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If AHA does not receive third-party documentation within the required timeframe (and any extensions), AHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, AHA will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

AHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

AHA Policy

If AHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, AHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a AHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as AHA may allow, AHA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

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 sexual assault or stalking, must be retained in confidence. This means that AHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

AHA Policy

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 and addressed.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

[Housing Authority of the City of Alameda (AHA)^{2]}

Notice of Occupancy Rights under the Violence Against Women Act³

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.⁴ The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that [insert name of program or rental assistance] is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or

² The notice uses OHA for housing provider but the housing provider should insert its name where AHA is used. HUD’s program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

³ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

⁴ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under **[insert name of program or rental assistance]**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under **[insert name of program or rental assistance]**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **[insert name of program or rental assistance]** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

AHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If AHA chooses to remove the abuser or perpetrator, AHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, AHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, AHA must follow Federal, State, and local eviction procedures. In order to divide a lease, AHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, AHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, AHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a

victim of sexual assault, then in addition to qualifying for an emergency transfer

because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar day period before you expressly request the transfer.

AHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

AHA's emergency transfer plan provides further information on emergency transfers, and AHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

AHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from AHA must be in writing, and AHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. AHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to AHA as documentation. It is your choice which of the following to submit if AHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by AHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence,

sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that AHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, AHA does not have to provide you with the protections contained in this notice.

If AHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), AHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, AHA does not have to provide you with the protections contained in this notice.

Confidentiality

AHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

AHA must not allow any individual administering assistance or other services on behalf of AHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

AHA must not enter your information into any shared database or disclose your information to any other entity or individual. AHA, however, may disclose the information provided if:

- You give written permission to AHA to release the information on a time limited basis.

AHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.

A law requires AHA or your landlord to release the information.

VAWA does not limit AHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, AHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if AHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If AHA can demonstrate the above, AHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-201611-16/pdf/2016-25888.pdf>.

Additionally, AHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/ourprograms/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

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

- 1. Date the written request is received by victim: _____
- 2. Name of victim: _____
- 3. Your name (if different from victim's): _____
- 4. Name(s) of other family member(s) listed on the lease: _____

- 5. Residence of victim: _____
- 6. Name of the accused perpetrator (if known and can be safely disclosed): _____

- 7. Relationship of the accused perpetrator to the victim: _____
- 8. Date(s) and times(s) of incident(s) (if known): _____

**10. Location of
incident(s):** _____

In your own words, briefly describe the incident(s): _____ _____ _____ _____
--

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Housing Authority of the City of Alameda

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

In accordance with the Violence Against Women Act (VAWA),⁵ the **Housing Authority of the City of Alameda (AHA)** allows tenants or participants of covered programs who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's/participant's current unit to another unit. Emergency transfers as discussed in this Plan are only those moves required as a result of an eligible claim under VAWA. The ability to request a move is available regardless of sex, gender identity, or sexual orientation.⁵ The ability of AHA to honor such requests for tenants/participants currently receiving assistance, however, may depend upon 1) a preliminary determination that the she or he is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, 2) whether another dwelling unit is available, and 3) the move is safe to offer the tenant/participant for temporary or more permanent occupancy.

⁵ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

⁵ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

This plan identifies tenants/participants who are eligible for an emergency transfer under VAWA, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants/participants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that AHA is in compliance with VAWA.

Covered Housing Programs

In accordance with 24 CFR 5.2003, this Emergency Transfer Plan applies to applicable HUDcovered housing programs. Covered housing programs operated or administered by AHA consist of the following:

1. Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
2. Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
3. Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.
4. HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
5. Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability

Assistance program (with regulations forthcoming).

6. Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
7. Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
8. HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).
9. The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

Covered housing provider refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections. AHA is the covered housing provider for this Emergency Transfer Plan. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be AHA.

Eligibility for Emergency Transfers

A tenant/participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L as well as under provisions of California state law such as Penal Code §273.5 is eligible for an emergency

transfer:

a) if the tenant/participant expressly requests the transfer; and

b) Either:

1. The tenant/participant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit; or
2. In the case of sexual assault, the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer. (See 24 CFR § 5.2005(e)(2).)

A tenant/participant requesting an emergency transfer must expressly request the move in accordance with the procedures described in this plan.

Regardless of their compliance with the lease or participant obligations, tenants/participants may still request an emergency transfer if they meet the eligibility requirements in this section. However, qualifying for an emergency transfer does not guarantee continued assistance under the program or a transfer to another covered housing program. The emergency transfer requirements under VAWA do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. (See 24 CFR 5.2005(e)(13).)

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant/participant shall notify AHA's management office and submit a written request for a move to the property/site management office or to **701 Atlantic Ave, Alameda, CA 94501**. AHA will provide reasonable accommodations to this policy for individuals with disabilities.

Written Request for a Transfer

The tenant's/participant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant/participant reasonably believes that there is a threat of imminent harm from further violence if the tenant/participant were to remain in the same dwelling unit assisted under AHA's program; OR
2. A statement that the tenant/participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

AHA will keep confidential any information that the tenant/participant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant/participant gives AHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Tenants/participants for more information about AHA's responsibility to maintain the

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confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

AHA cannot guarantee that a move request will be approved or how long it will take to process a move request. If a tenant/participant reasonably believes a proposed move would not be safe, the tenant/participant may request a move to a different unit. If a unit is available, the transferred tenant/participant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant/participant has been moved. AHA may be unable to move a tenant/participant to a particular unit if the tenant/participant has not or cannot establish eligibility for that unit.

If AHA has no safe and available units for which a tenant/participant who needs an emergency transfer is eligible, AHA will assist the tenant/participant in identifying other housing providers who may have safe units that are immediately available within 30 days to which the tenant/participant could move. At the tenant's request, AHA will also assist tenants/participants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants/Participants

Pending processing of the move and the actual move, if it is approved and occurs, the tenant/participant is urged to take all reasonable precautions to be safe.

Tenants/participants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants/participants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants/participants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN

U.S. Department of Housing and Urban Development

OMB Approval No. 25770286 Exp.

06/30/2017

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

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider’s emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider’s emergency transfer plan for more details.
(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current

restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

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

3. Name(s) of other family member(s) listed on the lease: _____

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

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

6. Address or phone number for contacting the victim: _____

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

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

–
12.If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

PART VIII: CONFLICT OF INTEREST POLICY

16-VIII.A. OVERVIEW

Neither AHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with any of AHA's public housing programs in which any of the following classes of persons has any interest, direct or indirect, during their tenure or for one year thereafter:

1. Any present or former member or officer of the Authority (except a participant commissioner);
2. Any employee of the Authority, or any contractor, subcontractor or agent of the Authority, who formulates policy or who influences decisions with respect to the programs (except that program participants may be hired as employees of the Authority);
3. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
4. Any member of the Congress of the United States.

16-VIII.B. EMPLOYEES WHO ARE ALSO AUTHORITY 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 procedural standards are to be employed in all such circumstances.

1. No 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.
2. Employees of the Office of Property Management shall be responsible for reporting to the Director of Human Resources and the Director of Property Management 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 Director of Property Management for a determination.

It shall be the responsibility of the Director of Property Management to ensure that any actions or decisions taken within the Office of Property Management affecting any employee's participant status or the participant status of an employee's relative are in accordance with all applicable policies and procedures. It shall be the responsibility of the Director of Housing Management to ensure that any actions or decisions taken within the Eligibility Department affecting any applicant's status or the applicant status of an employee's relative are in accordance with all applicable policies and procedures. Both Directors shall ensure that the employee or employee's relative shall neither suffer any loss of benefit nor receive any gain of benefits as a result, direct or indirect, of her/his employment at the Authority or their relationship to an Authority employee. As such:

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

16-VIII.C. DISCLOSURE

Member of the classes listed below must disclose their interest or prospective interest to AHA and HUD as follows:

Relation to AHA	Disclosure Required	Disclosure Frequency
AHA Board Members All Executive Office Staff All Directors All Section 8 Staff All Public Housing Staff All Asset Management Staff All Eligibility Staff All MIS Staff All Finance Staff	o <i>CA Statement of Economic Interests</i>	Annually
Contractors Sub-contractors Agents of the Authority	• <i>CA Statement of Economic Interests</i> p <i>AHA Statement of Employee and Familial Participation in Housing Authority Programs</i>	Upon contract with AHA, annually thereafter Upon contract with AHA, annually thereafter

16-VIII.D. DISCIPLINARY PROCEDURES

It is the policy of AHA to operate all of its programs in an ethical manner and in such a way that no group or individual shall have an unfair advantage in the receipt of AHA's programs and

services. AHA will vigorously investigate any suspected violation of its Conflict of Interest policies and will cooperate with HUD's Office of Inspector General, local and AHA police and any other appropriate bodies when conducting investigations of suspected violations.

Appropriate penalties shall be determined for each individual case. Available penalties include:

- a. Written reprimand;
- b. Suspension;
- c. Probation;
- d. Demotion;
- e. Termination; and
- f. Criminal Prosecution.

16-VIII.E. WAIVER CONFLICT OF INTEREST PROVISIONS

The conflict of interest prohibitions detailed under this section may be waived for good cause by the HUD field office.

16-VIII.F. GIFT POLICY

The Office of Property Management utilizes AHA's Gift Policy.

AHA Policy

It is the policy of AHA to operate all of its programs in an ethical manner and in such a way that no group or individual shall have an unfair advantage in the receipt of AHA's programs and services. AHA will vigorously investigate any suspected violation of its Gift Policy and will cooperate with HUD's Office of Inspector General, local and AHA police and any other appropriate bodies when conducting investigations of suspected violations. Appropriate penalties shall be determined for each individual case. Available penalties include:

- a. Written reprimand;
- b. Suspension;
- c. Probation;
- d. Demotion;
- e. Termination; and
- f. Criminal Prosecution.

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GLOSSARY

A. *ACRONYMS USED IN SUBSIDIZED HOUSING*

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher

HQS	Housing quality standards.
HIP	Housing Information Portal
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 Sub-module of the PIC system) NOFA Notice of funding availability OMB Office of Management and Budget PASS Plan for Achieving Self-Support
NSPIRE	National Standards for the Physical Inspection of Real Estate
PBV	Project-based Voucher
AHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals

RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

- **Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.
- **Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.
- **Adjusted Income.** Annual income, less allowable HUD deductions.
- **Adjusted Annual Income.** Same as Adjusted Income.
- **Administrative fee.** Fee paid by HUD to AHA for administration of the program. (See §982.152.)
- **Administrative fee reserve** (formerly “operating reserve”). Account established by AHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.
- **Administrative plan.** The plan that describes AHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by AHA’s board and included as a supporting document to AHA Plan. See §982.54.
- **Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.
- **Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.
- **Annual contributions contract (ACC).** The written contract between HUD and a AHA under which HUD agrees to provide funding for a program under the 1937 Act, and AHA agrees to comply with HUD requirements for the program.
- **Annual Income.** The anticipated total income of an eligible family from all sources for the 12- month period following the date of determination of income, computed in accordance with the regulations.
- **Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.
- **Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

- **“As-paid” States.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.
- **Assets.** (See Net Family Assets.)
- **Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.
- **Budget authority.** An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a AHA program, budget authority is the maximum amount that may be paid by HUD to AHA over the ACC term of the funding increment.
- **Child.** A member of the family other than the family head or spouse who is under 18 years of age.
- **Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further 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.
- **Citizen.** A citizen or national of the United States.
- **Co-head.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.
- **Common space.** In shared housing: space available for use by the assisted family and other occupants of the unit.
- **Computer match.** The automated comparison of data bases containing records about individuals.
- **Confirmatory review.** An on-site review performed by HUD to verify the management performance of AHA.
- **Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.
- **Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

- **Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.
- **Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.
- **Contract.** (See Housing Assistance Payments Contract.)
- **Contract authority.** The maximum annual payment by HUD to a AHA for a funding increment.
- **Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.
- **Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.
- **Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.
- **Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.
- **Disabled family.** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
- **Disabled person.** See Person with Disabilities.
- **Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.
- **Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.
- **Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

- **Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- **Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).
- **Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.
- **Elderly Person.** An individual who is at least 62 years of age.
- **Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.
- **Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation. **Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)
- **Extremely Low Income Family.** . A very low income family whose annual income does not exceed the higher of (1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or (2) Thirty 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income for the area if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)
- **Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.
- **Fair Housing Act** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988
- **Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned,

existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

- **Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status.
 - A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
 - An elderly family or a near-elderly family
 - A displaced family
 - The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.
- **Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.
- **Family self-sufficiency program (FSS program).** The program established by a AHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).
- **Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).
- **Family unit size.** The appropriate number of bedrooms for a family, as determined by AHA under AHA subsidy standards.
- **Federal agency.** A department of the executive branch of the federal government.
- **Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.
- **Full-time Student.** A person who is attending school or vocational training on a full-time bases (carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)
- **Funding increment.** Each commitment of budget authority by HUD to a AHA under the consolidated annual contributions contract for AHA program.
- **Gender identity. Actual or perceived gender-related characteristics.**
- **Gross rent.** The sum of the rent to owner plus any utility allowance.

- **Group home.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.
- **Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.
- **Handicap Assistance Expense.** See “Disability Assistance Expense.”
- **HAP contract.** Housing assistance payments contract. (Contract). A written contract between AHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.
- **Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
- **Housing assistance payment.** The monthly assistance payment by a AHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.
- **Housing agency (HA).** A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“AHA” and “HA” mean the same thing.)
- **Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.
- **HUD.** The Department of Housing and Urban Development.
- **Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.
- **Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.
- **Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the family’s rental contribution.
- **Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.
- **Income for Eligibility.** Annual Income.
- **Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
 - All information about wages, as defined in the state's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a state unemployment compensation law
 - Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
 - Unearned IRS income and self-employment, wages and retirement income
 - Wage, social security, and supplemental security income data obtained from the Social Security Administration.
- **Individual with handicaps.** 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.
 - **Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.
 - **Initial payment standard.** The payment standard at the beginning of the HAP contract term.
 - **Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.
 - **Jurisdiction.** The area in which AHA has authority under State and local law to administer the program.
 - **Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.
 - **Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and AHA.
 - **Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
 - Is determined to be essential to the care and well-being of the persons;
 - Is not obligated for the support of the persons; and
 - Would not be living in the unit except to provide the necessary supportive services.
 - **Local Preference.** A preference used by AHA to select among applicant families.
 - **Low-Income Family.** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger

families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

- **Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.
 - **Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.
 - **Medical expenses.** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.
 - **Merger Date.** October 1, 1999.
 - **Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.
 - **Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.
 - **Monthly adjusted income.** One twelfth of adjusted income.
 - **Monthly income.** One twelfth of annual income.
 - **Mutual housing.** Included in the definition of “cooperative.”
 - **National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.
 - **Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.
 - **Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust.

Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, AHA or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

- **Non-citizen.** A person who is neither a citizen nor national of the United States.
- **Notice of Funding Availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.
- **Office of General Counsel (OGC).** The General Counsel of HUD.
- **Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.
- **AHA Plan.** The annual plan and the 5-year plan as adopted by AHA and approved by HUD. AHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a AHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.
- **Participant (participant family).** A family that has been admitted to AHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by AHA for the family (first day of initial lease term).
- **Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).
- **Persons With Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps."
- **Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

- **Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.
- **Private space.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.
- **Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”
- **Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.
- **Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.
- **Public Housing Agency (AHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of lowincome housing under the 1937 Act.
- **Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.
- **Receiving PHA. In portability:** A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.
- **Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.
- **Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).
- **Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

- **Residency Preference.** A AHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).
- **Residency Preference Area.** The specified area where families must reside to qualify for a residency preference.
- **Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project- based certificate assistance, and moderate rehabilitation programs, the responsible entity means AHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.
- **Secretary.** The Secretary of Housing and Urban Development.
- **Section 8.** Section 8 of the United States Housing Act of 1937.
- **Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.
- **Section 214** Section 214 of the Housing and Community Development Act of 1980, as amended
- **Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.
- **Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

- **Set-up charges.** In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.
- **Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.
- **Sexual orientation. Homosexuality, heterosexuality or bisexuality.**
- **Single Person.** A person living alone or intending to live alone.
- **Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.
- **Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.
- **Special admission.** Admission of an applicant that is not on AHA waiting list or without considering the applicant's waiting list position.
- **Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).
- **Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- **Spouse.** The marriage partner of the head of household.
- **State Wage Information Collection Agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.
- **Subsidy standards.** Standards established by a AHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

- **Suspension.** Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If AHA decides to allow extensions or suspensions of the voucher term, AHA administrative plan must describe how AHA determines whether to grant extensions or suspensions, and how AHA determines the length of any extension or suspension. This practice is also called “tolling”.
- **Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.
- **Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.
- **Tenant rent to owner.** See “Family rent to owner”.
- **Term of Lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.
- **Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.
- **National Standards for the Physical Inspection of Real Estate (NSPIRE).**
- **Unit.** 24 CFR 5.703(d). HUD refers to the interior components of an individual unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.
- **Outside Areas.** 24 CFR 5.703(c). Refers to the building site, building exterior components, and any building systems located outside the building or unit.
- **Inside Areas.** 24 CFR 5.703(b). Inside of HUD housing refers to the common areas and building systems that can generally be found within the building interior and are not inside a unit. (Basements, attached garages, care rooms, halls, corridors, stairs, laundry rooms, etc.)
- **Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a AHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.
- **Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

- **Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.
- **Vacancy Loss Payments.** (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies AHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.
- **Very Low Income Family.** A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.
- **Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.
- **Voucher (Housing Choice Voucher).** A document issued by a AHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for AHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.
- **Voucher holder.** A family holding a voucher with an unexpired term (search time).
- **Voucher program.** The housing choice voucher program.
- **Waiting list admission.** An admission from AHA waiting list.
- **Welfare assistance.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.
- **Welfare-to-work (WTW) family.** A family assisted by a AHA with Voucher funding awarded to AHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

Work-Eligible Household. A family whose head, spouse, or sole member is a person that does not meet the qualification for senior nor disabled.