



HOUSING AUTHORITY OF THE
COUNTY OF SAN BERNARDINO

Public Housing Admissions and Continued Occupancy Policies



Housing Authority of the County of San Bernardino

Affordable Housing Programs ACOP

Revised: February 2021

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CHAPTER 1

HACSB ACOP INTRODUCTION

1 Introduction

The Housing Authority of the County of San Bernardino (hereafter “HACSB” or “Housing Authority”) administers the federally funded public housing program throughout the County of San Bernardino. HACSB executed a Moving to Work Agreement (“MTW Agreement”) with the U.S. Department of Housing and Urban Development (HUD) on March 14, 2008. The MTW Agreement governs and supersedes, as appropriate, applicable Federal laws, rules, regulations, contracts, and agreements that have been or will be waived and/or modified by the MTW Agreement and subsequent Amendments to the Agreement.

This Admissions and Continued Occupancy Plan, in conjunction with approved MTW Plans and Amendments identify the operational policies for the HACSB Public Housing program which hereafter will be referred to as the HACSB Affordable Housing program.

Administration of the Affordable Housing program and the functions and responsibilities of the Housing Authority’s staff shall be in compliance with the agency’s Personnel Policy and HUD regulations, where applicable, as well as Federal, State, and local Fair Housing laws and regulations.

1.1 Purpose of Plan

The purpose of the ACOP is to establish policies that govern the Housing Authority’s administration of its affordable housing program in a manner consistent with HUD requirements, HUD Notices, and the Housing Authority’s MTW plan.

The policies in this ACOP comply with applicable local, State, HUD and other Federal regulations, relevant memos, notices and guidelines, including fair housing and equal opportunity requirements. If applicable regulatory changes conflict with this plan, HUD regulations and HACSB’s MTW Plan will have precedence.

The Housing Authority adheres to its ACOP in administering all affordable housing programs. The ACOP and any changes must be approved by the Housing Authority’s Board of Commissioners, and a copy of the ACOP must be provided to HUD. As much

as possible, revisions and additions are published to coincide with published changes in the Housing Authority's MTW Annual Plan.

Interim changes, including Board mandates and administrative updates reflecting changes in law or regulatory requirements, will be made effective by memo from the Executive Director or designee.

HACSB may exercise discretion in applying the requirements of its policies when changes are made to those policies in response to a specific case. Such discretion will require Executive Director approval. The purpose of this discretionary flexibility is to ensure that policy changes can be applied to families who are the reason for that policy change. For example, if HACSB changes its policy regarding temporary hardship exemptions as the result of an individual case which revealed an oversight or gap in HACSB's temporary hardship exemption policy, HACSB may allow flexibility in the time permitted for the family to provide supporting documents for a temporary hardship exemption request.

1.1.1. Formerly Upland Housing Authority Participants

Effective July 1, 2017, the Public Housing program previously administered by the Housing Authority of the City of Upland (UHA) was absorbed by HACSB through a HUD-approved Voluntary Transfer. As a result, the families participating in UHA's Public Housing program became participants of HACSB's Public Housing program on that date. As a result, in accordance with the implementation processes outlined in HACSB's 2017 MTW Plan Amendment 2 and HACSB's 2018 MTW Plan, effective January 1, 2018, upon recertification HACSB's Admissions and Continued Occupancy Plan (ACOP) policies apply to the former UHA families, and they will also be subject to HACSB's Moving to Work program in accordance with HACSB's HUD-approved MTW Plan, unless otherwise stated. For all former UHA waiting list applicants effective July 1, 2017, new families admitted from the waiting list will also be subject to HACSB's ACOP policies and HACSB's Moving to Work program in accordance with HACSB's HUD-approved MTW Plan like other HACSB families, unless otherwise stated.

1.2 Organization and Structure of HACSB

The Affordable Housing Program is largely funded by the federal government and administered by the HACSB. The Housing Authority's jurisdiction includes:

- The unincorporated areas of San Bernardino County, California; and
- All cities within the County of San Bernardino with the exception of the City of Needles.

The officials of the Housing Authority are known as commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the Housing Authority conducts business, ensuring that policies are followed by staff and ensuring the agency is successful in its mission. The Board is responsible for preserving and expanding the agency's resources and its continued viability.

Formal actions of the Housing Authority are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the HACSB.

The principal staff member of the Housing Authority is the President/Chief Executive Officer (CEO), hired and appointed by the Board of Commissioners. The President/CEO is directly responsible for carrying out the policies established by the Board and is delegated the responsibility for hiring, training and supervising staff to ensure compliance with federal and state laws and directives for the programs managed. In addition, the President/CEO's duties include budgeting and financial planning for the agency.

1.3 Mission Statement and Vision

The Mission Statement of the Housing Authority is:

HACSB empowers all individuals and families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout San Bernardino County.

The Vision of the Housing Authority is:

HACSB is committed to creating a world in which all people have a stable and enriched quality of life.

1.4 Local Objectives

As a public agency, the Housing Authority is committed to providing excellent service to families and the community. The Housing Authority's affordable housing programs are designed to achieve three major objectives:

- To provide decent, safe, and sanitary housing for very low-income families while maintaining their rent payments at an affordable level.
- To ensure that families pay fair and reasonable rents.

- To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

In addition, the Housing Authority has the following goals for its programs:

- To encourage self-sufficiency of resident families and assist in the expansion of opportunities which address educational, socioeconomic, recreational, and other human service's needs.
- To create positive public awareness and expand the level of family and community support in accomplishing the Housing Authority's mission.
- To maintain a high level of standards and professionalism in our day-to-day management of all program components.
- To administer an efficient, high-performing agency through continuous improvement of the Housing Authority's support systems and commitment to our employees and their development.

1.5 Affordable Housing Programs

The purpose of the affordable housing program is to provide affordable housing to eligible families. The rules and regulations of the program are determined by HUD. The Housing Authority is afforded choices in the operation of the program which are included in the HACSB's ACOP and the Housing Authority's MTW Plans.

1.5.1 Affordable Housing Program Overview

HUD writes and publishes regulations in order to implement affordable housing laws enacted by Congress. HUD contracts with HACSB to administer programs in accordance with HUD regulations and provides an operating subsidy to the HACSB.

The job of the HACSB pursuant to HUD regulations is to provide decent, safe, and sanitary housing to low-income families at an affordable rent. The HACSB screens applicants for affordable housing and, if they are found eligible and accepted, the HACSB offers the applicant a unit. If the applicant accepts the offer, the HACSB will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a resident of the affordable housing program. This policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the HACSB owns the affordable housing development, the HACSB is the landlord. The HACSB complies with all of the legal and management responsibilities of a landlord

in addition to administering the program in accordance with HUD regulations and HACSB policy. HACSB will provide new and existing families with a copy of the Notice of Occupancy Rights under VAWA form HUD 5380 and Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation form HUD 5382 at lease-up, recertification, or Interim changes in accordance with HUD regulations.

1.5.2 Affordable Housing Program Types

The Housing Authority administers four distinct types of affordable programs.

- **Streamlined Fixed Lease Assistance for Elderly/Disabled Families** – Elderly/Disabled families who become residents after November 1, 2014 or who were existing residents prior to November 1, 2014 and have a recertification effective date of February 1, 2015 or later will participate in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program.¹ This also applies to the former Upland Housing Authority (UHA) elderly/disabled families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future ACOP references to Streamlined Fixed Lease Assistance families will also apply to these former UHA families. Each resident family has their income calculated based on gross income and receives no allowances or deductions. Rent is determined based on a set percentage of income throughout tenancy.
- **Streamlined Tiered Lease Assistance for Career Focused Families** – Non elderly/disabled families who become residents after November 1, 2014 or who were existing residents prior to November 1, 2014 and have a recertification effective date of February 1, 2015 or later are part of the Streamlined Tiered Lease Assistance for Career Focused Families program. This also applies to the former Upland Housing Authority (UHA) career focused families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future ACOP references to Streamlined Tiered Lease Assistance families will also apply to these former UHA families. Each resident family has their income

¹ The FY 2013 Moving to Work Annual Plan included Activity 22: Streamlined Lease Assistance programs, and the activity was amended via HACSB's 2016 Moving to Work Annual Plan. The Streamlined Fixed Lease Assistance program serves elderly/disabled families and the Streamlined Tiered Lease Assistance program serves Career Focused Families. The Transitional Assistance for MTW Families results from the creation of this program to transition families who were on the program prior to the implementation of the Streamlined Programs into the applicable Streamlined Lease Assistance program.

calculated on gross income and receives no allowances or deductions. Rent is determined based on an increasing percentage of income at each recertification.

- Streamlined Fixed Lease Assistance for Career-Focused Families –
- All non-elderly and non-disabled families admitted after January 1, 2017, or as soon as practicable thereafter, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program.
- **Transitional Assistance for MTW Families** – Existing residents who were admitted prior to November 1, 2014 and who have a recertification date prior to February 1, 2015 will participate in the Transitional Assistance for MTW Families program until their next recertification, at which time they will transition to the Streamlined Lease Assistance program that they are determined to be eligible for. These residents are subject to HACSB rules that were implemented for MTW families. These specific rules will be noted in each ACOP chapter. Each of these families will transition to the applicable Streamlined Assistance program at their next regularly scheduled recertification.

1.6 Rules and Regulations

This ACOP is set forth to define the Housing Authority's local policies for operation of the housing programs in the context of Federal laws and regulations. All issues related to the affordable program not addressed in this document are governed by the HACSB's MTW Agreement, MTW Plans, federal regulations, HUD memos, notices and guidelines, state and local laws, and other applicable laws. Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: HACSB-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

1.7 Fair Housing Policy [24 CFR §982.54(d)(6)]

The Housing Authority is committed to nondiscrimination in housing and does not discriminate on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The Housing Authority complies with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2013 (VAWA 2013)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012
- Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted

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

The Housing Authority shall not deny any family or individual the opportunity to apply for or receive assistance under the program on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap, disability, gender identity or sexual orientation. The Housing Authority will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment

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- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or resident toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

To further its commitment and compliance with applicable Civil Rights laws, the Housing Authority will provide Federal, State, and local information to applicants and residents regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family lease orientation session, and all applicable fair housing information and HUD-903 "Housing Discrimination Complaint" form will be made a part of the briefing packet.

Applicants or residents who believe that they have been subject to unlawful discrimination may notify the Housing Authority either orally or in writing. The Housing Authority will attempt to remedy discrimination complaints made against the agency. The Housing Authority will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The Housing Authority will ask all applicants and residents if they require any type of accommodations, in writing, on all relevant forms and notices of adverse action by the Housing Authority by including the following language:

“If you or a member of your family have a disability and think that you might need or want a reasonable accommodation you may request it at any time.”

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities. Fair housing signage is posted throughout the Housing Authority’s office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments and/or regulations.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Housing Authority’s facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Housing Authority’s office in such a manner as to be easily readable from a wheelchair.

In order to provide accessibility for persons who are deaf, hard-of-hearing or hearing or speech impaired, the Housing Authority utilizes the national 711 telecommunications relay service.

1.8 Reasonable Accommodations Policies and Procedures [24 CFR 8.24]

The Housing Authority’s policies and practices are designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on Housing Authority forms and letters to all families.

The Housing Authority will make a reasonable accommodation or modification for individuals with disabilities when necessary to ensure equal access to HACSB’s property and property amenities, programs, services and activities. Reasonable modifications include changes to a building, grounds or an individual apartment and reasonable accommodations include changes to policies, programs, services and procedures. HACSB will provide accommodations or modifications as requested unless doing so is unreasonable. A request is unreasonable if it is structurally infeasible, would result in a fundamental alteration in the nature of a HACSB program, or would result in an undue

financial and administrative burden. If a request is unreasonable, HACSB will work with the individual to try to accommodate his or her needs.

An individual with a disability may request a reasonable accommodation at any time during the application process or participation in the affordable housing program. Individuals may submit their reasonable accommodation request(s) in writing, orally, or by any other equally effective means of communication. However, Housing Authority will ensure that all reasonable accommodation requests are put in written form.

Within twenty (20) business days of receipt, the HACSB will notify the individual, in writing, if additional information or documentation is needed and a reply date for the submission of the required documentation. This notification letter may also request the completion and submittal of additional forms.

HACSB may request additional documentation in order to verify the extent of an individual's functional limitations and whether the requested accommodation is substantially related to the functional limitations of the disability. In addition, HACSB may request that the individual provide suggested reasonable accommodations. However, HACSB will not require individuals to disclose confidential medical records in order to verify a disability. In addition, HACSB will not require specific details regarding the disability. HACSB will only request documentation to confirm the disability-related need(s) for the requested accommodation(s). HACSB may not require the individual to disclose the specific disability(ies) or the nature or extent of the individual's disability(ies).

Unless a disability is already known by the Housing Authority or readily apparent, a knowledgeable professional must provide verification of an individual's disability and the need for the requested accommodation. Knowledgeable professionals include, but are not limited to (1) physician; (2) licensed health professional; (3) professional representing a social service agency; or (4) disability agency or clinic.

Within thirty (30) business days of receipt of the request and, if necessary, all supporting documentation, HACSB will provide written notification to the individual of its decision to approve or deny the request(s). If HACSB approves the accommodation, the individual will be notified of the projected date for implementation. If HACSB denies the accommodation, the individual will be notified of the reasons for denial. In addition, the notification of the denial will also provide information regarding their right to appeal.

If a request for accommodation is denied, individuals may file a request for an appeal with the Reasonable Accommodation Review Committee for evaluation and final decision.

1.9 Program Accessibility [24 CFR 8.6]

HUD regulations require the Housing Authority ensure that persons with disabilities related to hearing and vision have reasonable access to the Housing Authority's programs and services.

At the initial point of contact with each applicant, the Housing Authority shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork. To meet the needs of persons with hearing or speech impairments, the Housing Authority utilizes the national 711 telecommunications relay service.

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

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

1.10 Translation of Documents

The Housing Authority acknowledges the importance of serving Limited English Proficiency (LEP) persons and adopted a Language Access Plan to ensure its programs and services are accessible to persons with LEP. In accordance with Federal guidelines, the Housing Authority will make reasonable efforts as appropriate and in consideration of cost and availability of resources to provide language assistance for its LEP residents, applicants, and/or persons eligible for Housing Authority programs. A copy of the Language Access Plan is located on the agency's website at www.hacsb.com or can be requested by calling any Housing Authority Office.

1.11 Physical Accessibility

The HACSB complies with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990

- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the HACSB's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.

The design, construction, or alteration of HACSB facilities conforms to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly-constructed facilities will be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the affordable housing program.

1.12 Management Assessment

The Housing Authority operates its housing assistance program with efficiency and utilizes all resources in a manner that reflects its commitment to quality and service. In order to demonstrate compliance with HUD and other pertinent regulations, the Housing Authority will maintain records, reports, and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional, or other interested party to follow, monitor, and/or assess the agency's operational procedures objectively and with accuracy.

Due to the standardized format of Public Housing Assessment System (PHAS), and the lack of a successor system for Moving to Work Agencies, the Housing Authority has been

unable to participate in the PHAS program.² However, the Housing Authority has been collaborating with a group of other Moving to Work Public Housing Authorities to develop a replacement to HUD's PHAS. Once a successor system has been adopted, the Housing Authority will participate in the assessment program. The Housing Authority will continue to maintain its internal performance management systems to ensure effective management and customer service.

1.13 Privacy Rights [24 CFR 982.551 and 24 CFR 5.212]

Applicants and residents, including all adults in their households, are required to sign the "Authorization for the Release of Information/Privacy Act Notice." This document incorporates the Federal Privacy Act statement and describes the conditions under which HUD will release family information. The Housing Authority also has additional Release of Information Forms which must be completed by household members as required.

The Housing Authority's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information. Records subject to the provisions of the Privacy Act will be maintained with appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate confidential folder. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the supervisory staff.

The Housing Authority's practices and procedures are designed to safeguard the privacy of applicants and residents. All applicant and resident files will be stored in a secure location which is only accessible by authorized staff. Housing Authority staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

² The FY 2009 Moving to Work Annual Plan included Activity 3: Alternate Assessment Program.

Information such as credit history, criminal record, date of birth, social security number, medical records, financial status, and similar information would normally be considered sensitive. Managers should consider the sensitivity of the data contained in the records and the anticipated threats or hazards to their security as a basis for establishing safeguards to provide adequate protection.

Privacy Act records containing sensitive information with few anticipated threats or hazards should be maintained subject to the following minimum safeguards:

- Areas in which the records are maintained or regularly used should be posted with a warning that access to the records is limited to authorized persons. The warning should state that the Privacy Act provides for civil and criminal penalties for unauthorized disclosure of records to which it applies.
- During working hours, the area in which the records are maintained or regularly used should be occupied by authorized personnel or access to records should be restricted by their storage in locked file cabinets or a locked room.
- During non-working hours, access to the records should be restricted by storage in locked file cabinets or a locked room.
- Care should be taken to ensure that master keys are not available to unauthorized personnel.

The destruction of records subject to the Privacy Act should be sufficient to prevent the association of any individual name or identifier with any information pertaining to that individual. Acceptable methods of destruction include burning, shredding or pulping.

CHAPTER 2

ELIGIBILITY, DENIAL OF ADMISSION AND INFORMAL REVIEWS

2 Introduction

The HACSB is responsible for ensuring that every individual and family admitted to the affordable housing program meets all program eligibility requirements. This chapter describes definitions of family and household members and basic eligibility criteria.

2.1 Definitions of Family and Household

Some eligibility criteria and program rules vary depending upon the composition of the family. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the unit.

2.1.1 Family and Household [24 CFR 5.403 and HUD-50058 IB, p. 13, FR Notice 02/03/12]

The term “family” includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status. The terms *family* and *household* have different meanings in the affordable housing program. The applicant must qualify as a family. The Housing Authority defines a family as a single person or a group of persons as described in the following sections on elderly family, disabled family, displaced family, near-elderly family, group of persons and a single person.

The *Household* is a broader term that includes additional people who, with the HACSB’s permission, live in an affordable housing unit, such as live-in aides and guests.³

2.1.1.1 Family Types

- There are multiple types of families in the affordable housing programs: Elderly families, disabled families, displaced families, near-elderly families, group of persons and a single person.

³ HACSB’s MTW Activity 5: Simplified Income Determination includes foster children and adults as family members.

2.1.1.1.1 Elderly and Near Elderly Family

The Housing Authority uses two different definitions of elderly family. The first applies to families participating in the Streamlined Lease Assistance program. The second applies to families in the Transitional Assistance for MTW Families. A near elderly family means a family whose head (including co-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, there is no separate program determination for near elderly families, they fall into the same program determination categories as any family that is under 57 or under 62 as described in the sections below.

2.1.1.1.1.1 Streamlined Lease Assistance⁴

An elderly family is one whose head, spouse, or sole member is a person who is at least 57 years of age. It may include two or more persons who are at least 57 years of age living together, or one or more persons who are at least 57 years of age living with one or more live-in aides. A near elderly family is one whose head, spouse or sole member is a person who is 50-56 years of age.

2.1.1.1.1.2 Transitional Assistance for MTW Families

An elderly family is one whose head, spouse, or sole member is a person who is at least 62 years of age. It may include 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. A near elderly family is one whose head, spouse or sole member is a person who is 50-61 years of age.

2.1.1.1.2 Disabled Family

A disabled family is one whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

2.1.1.1.3 Group of Persons

A group of persons is considered a family type. This includes two or more persons sharing residency, who are not categorized as an elderly or disabled family, whose income and resources are available to meet family needs. A single person who is pregnant or in the

⁴ The FY 2013 Moving to Work Annual Plan included Activity 23: Streamlined Lease Assistance program. This program includes additional program determination criteria, including lowering the elderly age to 57.

process of adopting or securing legal custody of any individual under the age of 18 is considered a group of two (2) for the purpose of this definition.

2.1.1.1.4 Single Person

A single person family is one comprised of a single person who lives alone, or intends to live alone, who is not categorized as elderly, disabled, or the remaining member of a resident family.

2.1.2 Family Break-Up [24 CFR 982.315]

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

If a family breaks up into two otherwise eligible families while living in affordable housing, only one of the new families will continue to be assisted. The Public Housing Authority (PHA) will require the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation form HUD 5382. In cases where conflicting certification is received, the PHA may determine which is the true victim by requiring third-party documentation in accordance with HUD guidelines.

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

Except under the following conditions, the Housing Authority has discretion to determine which members of the family will receive assistance if the family breaks up:

- If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the Housing Authority must ensure that the victim is approved to receive assistance.
- If a court determines the disposition of property between members of the family in a divorce or separation decree, the Housing Authority is bound by the court's determination of which family members shall receive assistance.

In the absence of a judicial decision or an agreement among the original family members, the HACSB will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the HACSB will take into consideration the following factors:

- Which family member applied as head of household;
- Which family member retains the children or any disabled or elderly members;
- Which members were part of the household at the time of application;
- Any restrictions that were in place at the time the family applied;
- Recommendation of social service agencies or qualified professionals.

2.1.3 Remaining Members of Resident Household [24 CFR 5.403]

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

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

2.1.4 Multiple Families in the Same Household

When families consisting of two families living together (such as a mother and father, and a daughter with her own husband or children), apply together as a family, they will be treated as a one-family unit.

2.1.5 Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or recertification will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Authority will make the determination based on available documents such as court orders, school records or an IRS return showing which family has claimed the child for income tax purposes. Under no circumstances will a family member be permitted to reside in multiple properties assisted under the 1937 Housing Act.

2.2 Definition of Members

- This part describes family and household members to assist with the application of eligibility rules.

2.2.1 Head of Household [24 CFR 5.504(b)]

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

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

2.2.2 Spouse, Co-Head or Other Adult

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13]. *Spouse* means the marriage partner of the head of household. A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Live-in aides are not considered other adults [HUD-50058 IB, p. 14].

2.2.3 Dependent [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, and live-in aides. Foster children/adults are considered dependents.⁵ Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

⁵ HACSB's MTW Activity 5: Simplified Income Determination includes foster children and adults as family members.

2.2.4 Full-Time Student [24 CFR 5.603]

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

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

2.2.5 Persons with Disabilities [24 CFR 5.403, FR Notice 02/03/12]

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

2.2.6 Guests [24 CFR 5.100]

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

The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near HACSB premises [24 CFR 966.4(f)]. Former residents who have been evicted are not permitted as guests.

A resident family must notify the HACSB when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 cumulative calendar days during any 12 month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside

of the affordable housing unit more than 51 percent of the time, are not subject to the time limitations of guests as described above.

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

2.2.7 Foster Children and Foster Adults [24 CFR 5.609(c)(2)]

Foster adults are usually persons with disabilities, unrelated to the resident family, who are unable to live alone. The term foster child is not specifically defined by HUD regulations.

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency. A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of occupancy standards.

Children that are temporarily absent from the home as a result of placement in foster care are discussed later in this chapter. Foster children and foster adults that are living with an applicant or assisted family are considered family members.⁶

2.2.8 Live-In Aide

A family may include a live-in aide if the live-in aide meets the following stipulations:

- Is determined by the Housing Authority to be essential to the care and well-being of an elderly person or a person with the disability;
- Is not obligated for the support of the person(s);
- Would not be living in the unit except to provide care for the person(s); and
- Must submit a signed Criminal Background Consent Form and social security number

⁶ HACSB's MTW Activity 5: Simplified Income Determination includes foster children and adults as family members.

A live-in aide is different from a family member in the following:

- An aide's income will not be used to determine eligibility of the family;
- An aide is not subject to citizenship/eligible immigrant requirements; and
- An aide is not considered a remaining member of the family, which means that they are not entitled to retain housing assistance should the family no longer participate in the program

At any time the Housing Authority may refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related or violent criminal activity; or
- The person currently owes rent or other amounts to the Housing Authority, to another Housing Authority in connection with rental housing assistance or affordable housing assistance under the Housing Act of 1937.

A live-in aide may only reside in the unit with the approval of the Housing Authority. HACSB will require written verification from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly and/or disabled. The verification must include the hours of care that will be provided. The live-in aide will be subject to a criminal background check and must meet the same standard as an applicant. The Housing Authority will not increase the family's unit size to accommodate the family of a live-in aide.

Under limited circumstances, relatives may be approved to be a live-in aide but they must meet all the stipulations in the live-in aide definition described above. In particular, a relative who previously was living in the unit and wants to become a live-in aide must provide documentation that they would not be living in the unit except to provide the necessary supportive services and is not obligated for the support of the persons.

2.2.9 Absent Family Members

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness. Generally an individual who is or is expected to be absent from the affordable housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the affordable housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

2.2.9.1 Absent Students

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

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

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

2.2.9.3 Absent Head, Spouse or Co-Head

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

2.2.9.4 Individuals Confined for Medical Reasons

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

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

2.2.9.5 Incarcerated Head, Spouse or Co-Head

If the sole member is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 30 consecutive days.

2.2.9.6 Return of Permanently Absent Family Members

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

2.3 Income Eligibility and Targeting [24 CFR 5.603(b)]

HACSB must abide by HUD guidelines regarding HUD income limits for eligibility of applicants for the affordable housing program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size. There are three types of low-income families.

- *Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- *Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- *Extremely low-income family.* A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

2.3.1 Using Income Limits [24 CFR 960.201]

Initial and continued eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family.

2.4 Citizenship or Eligible Immigration Status [24 CFR 5, Subpart E]

At least one family member must be a U.S. citizen, U.S. national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

Each family member must declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must

be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

2.4.1 Declaration

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

2.4.2 U.S. Citizens and Nationals

Family members who declare citizenship or national status will not be required to provide additional documentation unless the HACSB receives information indicating that an individual's declaration may not be accurate.

2.4.3 Eligible Noncitizens

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

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

2.4.4 Ineligible Noncitizens

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

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor

children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

2.4.5 Mixed Families

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

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

HACSB may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the HACSB that the individual or at least one family member is eligible [24 CFR 5.512(a)].

The HACSB will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. When a HACSB determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

2.4.7 Timeframe for Documentation of Citizenship

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

If an individual qualifies for a time extension for the submission of required documents, the HACSB must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy. The HACSB will verify the status of applicants at the time other eligibility factors are determined.

2.5 Social Security Numbers [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7. **Note:** These requirements do not apply to noncitizens who do not contend eligible immigration status.

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

The HACSB must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

2.6 Family Consent to Release Information [24 CFR 5.230]

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

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

2.7 Screening for Criminal Background and Drug Abuse

The Housing Authority will screen all applicants 18 years of age and older for criminal and drug related activity. Applicants will be advised on the pre-application and at the start of the eligibility process that criminal behavior may preclude admission to the affordable housing program. All persons who sign the Disclosure Form, including the certification of criminal activity, declare under penalty of perjury that the information provided is accurate. Providing false information on this certification is grounds for denial of assistance.

The Housing Authority will check for criminal activity of an applicant family by using the criminal records system of the City and County of San Bernardino, the State of California, and the federal National Crime Information Center (the “NCIC”). HACSB reserves the right to run a criminal background check more than once if there is a delay in processing the family’s application. The Housing Authority will also examine criminal histories provided by other States or municipalities, court records, and other evidence that might document any criminal activity. The information to be examined includes:

- A. Any and all information relative to any criminal convictions or activity, within the past seven years;
- B. Any and all information relative to any criminal charges, including fugitive or warrant status that are currently pending before the court of the State of California or any jurisdiction, including the federal courts;
- C. Lifetime sex offender registration requirement for any household member. The Housing Authority will check in California and any other states where any family member is known to have resided.

The Housing Authority also will screen all applicants ages 18 years and older for drug related activity. The Housing Authority is a federally funded Agency and as a result, does not recognize State and Local laws that decriminalize certain drugs, including medical marijuana.

The Fair Housing Act explicitly states that current illegal drug users ARE NOT a protected class (persons with disabilities) and permits the Housing Authority to reject such applicants. Further, notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for the purposes of eligibility for low-income housing, solely on the basis of any drug or alcohol dependence. [QHWRA; Subtitle A; Sec. 506(3)].

An applicant will be denied admission for criminal and drug related history in accordance with the policies described in this chapter.

2.7.1 Obtaining Information from Drug Treatment Facilities

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

2.7.2 Required Denials of Admissions [24 CFR 960.204]

HACSB is required to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity.⁷ The HACSB may choose to admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the HACSB is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACSB, or the person who committed the crime is no longer living in the household.
- The HACSB determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)]. *Currently engaged in* is defined as any use of illegal drugs during the previous year.
- The HACSB has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

⁷ HUD requires that the Housing Authority consider evictions for drug-related criminal activity in federally-assisted housing that occurred within the past 3 years prior to the most recent application for assistance, but authorizes the Housing Authority to deny assistance if any member of the household has been evicted from federally-assisted housing in the last 10 years for drug-related criminal activity.

- In determining reasonable cause, the HACSB will consider all credible evidence, including but not limited to, any record of convictions, criminal charges, outstanding warrants, or a preponderance of evidence of engagement in violent or drug-related criminal activity or evictions of household members related to the use of illegal drugs or the abuse of alcohol. The HACSB will also consider evidence from treatment providers or community-based organizations providing services to household members.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

The HACSB may deny assistance or terminate tenancy for criminal activity by an applicant or household member in accordance with this section if HACSB reasonably determines; pursuant to HUD guidance in PIH 2015-19 that a household member has committed the criminal activity, regardless of whether a household member has been charged, arrested or convicted for such activity. The fact that an applicant/ tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant/ tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the household member actually engaged in disqualifying criminal activity. As part of its investigation, the HACSB may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACSB may also consider any statements made by witnesses or the household member 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; and any other evidence relevant to determining whether or not the tenant engaged in disqualifying activity. The HACSB may deny admission or terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

2.7.3 Other Permitted Denials of Admission [24 CFR 960.203(c)]

The HACSB is responsible for screening family behavior and suitability for tenancy. In doing so, the HACSB may consider an applicant's history of criminal activity involving

crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other residents.

The Housing Authority will deny assistance if any adult member has participated in any of the following criminal activities within the seven (7) years prior to consideration for admission:

1. Homicide, murder, voluntary manslaughter;
2. Rape, sexual battery, or other aggravated sex-related crimes;
3. Child molestation, child sexual exploitation;
4. Assault and battery
5. Trafficking, distribution, manufacture, sale, use or possession of illegal firearms;
6. Threatening or intimidating assault including but not limited to the unlawful discharge of firearms at any location;
7. Aiding and abetting in the commission of a crime involving violence;
8. Engagement in drug manufacture (including synthetic drugs), sale, distribution, use or possession with or without intent to manufacture, sell, distribute or use that may pose a risk to public health and safety;
9. Other violent or drug-related offenses that may pose a threat to public health and safety, including involvement in criminal street gang activity
10. Child neglect;
11. Disorderly conduct;
12. Abuse or pattern of abuse of alcohol and drugs that may pose a risk to public health and safety;
13. Fraud to obtain assistance, perjury, Grand Theft Housing;
14. Prostitution and solicitation of prostitution that may pose a risk to public health and safety;
15. Abusive behavior towards HACSB personnel, neighbors or landlords (physical and/or verbal) that may pose a threat to health and safety
16. Other criminal or drug related offenses that may pose a threat to public health and safety, including involvement in criminal street gang activity.

17. Engagement in any act intended to facilitate violent criminal or drug-related activity.

Documentation of any of the above stated criminal and drug related crimes by any applicant family member for the affordable program may result in rejection of the applicant family. Documentation of such activity may be considered alone or in conjunction with other criminal activity.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the Housing Authority will notify the family in writing of the denial and provide a copy of the record to the applicant and to the subject of the record, upon request. The family will be given an opportunity to dispute the accuracy and relevance of the information.

2.7.4 Additional Screening Criteria

- HUD authorizes the HACSB to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy. In the event of the receipt of unfavorable information with respect to an applicant, the HACSB will consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). HACSB may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

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

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

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- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has engaged in or threatened violent or abusive behavior toward HACSB personnel
- Abusive or violent behavior towards HACSB personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Any member of the family has been convicted of perjury, Grand Theft Housing and/or fraud to obtain aid and/ or there is a preponderance of evidence that fraud actually occurred (i.e., WI 10980(C)(2) and Penal Code 118(A) 4871).
- Any member of the family has ever engaged in serious lease violations while a resident of federally-assisted housing or within the past 10 years has been evicted from a federally-assisted housing program [24 CFR §982.552(c)(1)(ii)].⁸
- If any Housing Authority has ever terminated assistance under the program for any member of the family.
- If any member of the family commits fraud, bribery, or any other corrupt or criminal act in connection with any federally-assisted housing program.
- The family currently owes rent or other amounts to the Housing Authority or to another housing agency in connection with housing assistance under the Housing Act of 1937
- The family has not reimbursed the Housing Authority or any housing agency for amounts paid under a contract to an owner for rent, damages to the unit, or other amounts owed by the family under the lease The family breaches an agreement

⁸ HUD requires the Housing Authority to consider evictions for serious lease violations that occurred longer than 5 years ago but authorizes the Housing Authority to deny assistance if any member of the household has been evicted from federally-assisted housing in the last 10 years for serious lease violations.

with any housing agency to pay amounts owed to any housing agency, or amounts paid to an owner by any housing agency

In making its decision to deny admission, the HACSB will consider the factors discussed below. Upon consideration of such factors, the HACSB may, on a case-by-case basis, decide not to deny admission. The HACSB will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

2.8 Screening for Suitability [24 CFR 960.203(c)]

The HACSB is responsible for the screening and selection of families to occupy affordable housing units. The HACSB may consider all relevant information. Screening is important to affordable housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations. The HACSB will consider the family's history with respect to the following factors:

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial
- Compliance with any other essential conditions of tenancy

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

HACSB has a variety of resources available for determination of the suitability of applicants. Generally, HACSB will reject applicants who have recent behavior that would warrant lease termination for an affordable housing resident. This section describes what resources HACSB will use to check suitability.

2.8.1.1 Past Performance in Meeting Financial Obligations, Especially Rent

HACSB will use the following policies when determining past performance in meeting financial obligations for applicant suitability:

- PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination or eviction for non-payment, and whether utilities were ever

disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

- An applicant must be able to demonstrate that the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are resident-paid utilities.)
- If an applicant has five or more accounts in collection, excluding medical collections or student loans, listed on the credit report or the applicant has a history of evictions within the last five years of rental history, the applicant may be disqualified from becoming an affordable housing resident.
- If an applicant has no rental payment history the HACSB will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming an affordable housing resident, but a poor credit rating may.
- Applicants with no rental payment history will also be asked to provide the HACSB with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.
- If previous landlords do not respond to requests from the HACSB, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

2.8.1.2 Disturbances of Neighbors, Destruction of Property or Living/Housekeeping Habits at Prior Residences

HACSB will use the following policies when determining past performance regarding disturbances of neighbors, destruction of property or living or housekeeping habits at prior residences that may adversely affect health, safety or welfare of other residents or cause damage to the unit or development for applicant suitability:

- PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation;

and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

- Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.
- A personal reference, such as a family member that the applicant was renting from/living with previously, will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.
- Home visits may be used to determine the applicant's ability to care for the unit.

2.9 Criteria for Deciding to Deny Admission

This section describes the criteria HACSB will use to decide whether to deny assistance to an applicant for the affordable housing program.

If, in instances where the record search identifies criminal activity that is not an offence subject to mandatory denial (as directed by HUD). The Housing Authority will issue a notice that it is 'unable to determine' program eligibility based on the criminal background review. The notice will provide 30 calendar days for the family to submit additional information in regard to the items identified during the initial review and include accompanying guidance on the nature of evidence the family can submit to HACSB (see section 2.9.2) in order to make a determination and will provide a copy of the record to the applicant and to the subject of the record, upon request. The family will be given an opportunity to dispute the accuracy and relevance of the information and any mitigating circumstances presented will be reviewed on a case by case basis in order to make a the determination of eligibility. Following the expiration of the 30 day period, if no mitigating circumstances are provided, or if HACSB makes a determination to deny assistance, the Housing Authority will notify the family in writing of the determination to deny assistance, and the family will have the opportunity to request an informal review in accordance with section 2.12 of this policy.

2.9.1 Evidence

The HACSB will use the concept of the preponderance of the evidence as the standard for making all admission decisions. Preponderance of the evidence is defined as evidence

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

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

HUD authorizes the HACSB to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated.

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

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

The HACSB will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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

As a condition of receiving assistance, HACSB may request that the family agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the affordable housing unit. After admission to the program, the family must present evidence of the former family member's current address upon HACSB request.

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

If the family includes a person with disabilities, the HACSB's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the HACSB will determine whether the behavior is related to the disability. If so, upon the family's request, the HACSB will determine whether alternative measures are appropriate as a reasonable accommodation. The HACSB will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission.

2.9.5 Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) and the HUD regulation at 24 CFR 5.2005(b) prohibit HACSB from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Definitions of key terms used in VAWA are provided in Chapter 13 of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

2.9.5.1 Notification

The HACSB acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior criminal record) that would warrant denial under the HACSB's policies. Therefore, if the HACSB makes a determination to deny admission to an applicant family, the HACSB will include in its notice of denial information about the protection against denial provided by VAWA and will request that an applicant wishing to claim this protection notify the HACSB within 10 business days.

2.9.5.2 Documentation

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the HACSB will request HUD form 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation to be completed in writing demonstrating the connection between the abuse and the unfavorable history and naming the perpetrator of the abuse (only if the name of the perpetrator is safe to provide and is known to the victim).

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the affordable housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

2.10 Notice of Eligibility or Denial

The HACSB will notify an applicant family of its final determination of eligibility. If HACSB uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HACSB can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. Notice requirements related to denying admission to noncitizens are contained in Chapter 13.

2.11 Affordable Housing Program Determination

Once all eligibility factors have been confirmed, the Housing Authority will determine the affordable housing program for which the family qualifies. Program determination criteria is described in this section.

2.11.1 Streamlined Fixed Lease Assistance for Elderly/Disabled Families

All elderly or disabled applicants for affordable housing programs who are selected from the waiting list and admitted after February 1, 2015, including former Upland Housing Authority elderly/disabled waiting list applicants transferred through the HUD approved voluntary transfer on July 1, 2017 will participate in the Streamlined Fixed Lease Assistance for Elderly/Disabled families program. For the purpose of this program, an elderly family is one in which the head of household, spouse or co-head is 57 years of age or older. A disabled family is one in which the head of household, spouse or co-head is disabled.

All currently assisted elderly and disabled residents in the Transitional Assistance for MTW Families program who have a recertification effective date of February 1, 2015, or later, will participate in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program as of their recertification date.

2.11.2 Streamlined Tiered Lease Assistance for Career-Focused Families

All currently assisted non-elderly and non-disabled residents in the Transitional Assistance for MTW Families program who are recertified after February 1, 2015, will participate in the Streamlined Tiered Lease Assistance program as of their recertification date, including former Upland Housing Authority career focused families transferred through the HUD approved voluntary transfer who are recertified on or after January 1, 2018.

2.11.3 Streamlined Fixed Lease Assistance for Career-Focused Families

All non-elderly and non-disabled applicants for affordable housing programs who are selected from the waiting list and admitted after January 1, 2017, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program. Families who no longer qualify for Streamlined Fixed Lease Assistance for Elderly/Disabled Families after January 1, 2017, will participate in the Streamlined Fixed Lease Assistance for Career-Focused Families program as of their recertification date.

2.11.4 Transitional Assistance for MTW Families

Residents in the affordable housing program who received assistance prior to November 1, 2014, and have not yet been recertified as of February 1, 2015, participate in the Transitional Assistance for MTW Families program.

2.12 Informal Review for Applicants [24 CFR 960.208(a)]

Informal reviews are provided for affordable housing applicants to provide a means for an applicant to dispute a determination of ineligibility for admission to a community. An applicant is someone who has applied for admission to the affordable housing program, but is not yet a resident in the program. Informal reviews are intended to 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.

2.12.1 Informal Review Process [24 CFR 960.208(a) and PH Occ GB, p. 58]

The HACSB only offers the opportunity of an informal review to applicants who have been determined as ineligible for admission.

2.12.2 Notice of Denial

The HACSB gives an applicant prompt notice of a decision denying eligibility for admission. The notice contains a brief statement of the reasons for the decision, and also states that the applicant may request an informal review to dispute the decision. The notice must describe how to obtain the informal review.

2.12.3 Scheduling an Informal Review

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

The HACSB will schedule and send written notice of the informal review within 10 business days of the family's request.

2.12.4 Conducting an Informal Review

The applicant will be provided an opportunity to present written or oral objections to the decision of the HACSB. The person conducting the informal review will make a recommendation to the HACSB, but the HACSB is responsible for making the final decision as to whether admission should be granted or denied.

2.12.5 Informal Review Decision

The HACSB will notify the applicant of the HACSB's final decision, including a brief statement of the reasons for the final decision. In rendering a decision, the HACSB 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 HACSB policy, then the decision to deny assistance will be overturned.
- The validity of the evidence. The HACSB will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and HUD requires the denial, the HACSB will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the HACSB will consider the recommendation of the person conducting the settlement conference in making the final decision whether to deny admission.

The HACSB 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 review, to the applicant and his or her representative, if any. If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

2.12.6 Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the settlement conference process and the HACSB must consider such accommodations. The HACSB must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability.

CHAPTER 3

APPLICANTS, WAITING LIST AND RESIDENT SELECTION

3 Introduction

A family who wants to participate in the affordable housing program must submit an application that provides the HACSB with the information needed to determine the family's eligibility. All eligible families that apply will be placed on a waiting list. When a unit becomes available, the HACSB must select families from the waiting list in accordance with the policies described in this chapter.

This chapter describes policies for taking applications, managing the waiting list and selecting families from the waiting list. The policies for assigning unit size and making unit offers are contained in Chapter 4. Together, Chapters 3 and 4 of the ACOP comprise the HACSB's Tenant Selection and Assignment Plan (TSAP).

3.1 Applying for Assistance

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

3.1.1 Application Process [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]

Any family that wishes to reside in affordable housing must apply for admission to the program. HUD permits the HACSB to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the HACSB. However, the HACSB must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the HACSB's application [Notice PIH 2009-36].

Depending upon the length of time that applicants may need to wait to be housed, the HACSB may use a one- or two-step application process.

A one-step process may be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the HACSB initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from the HACSB's office during normal business hours or through the HACSB website. Families may also request – by telephone or by mail – that an application be sent to the family via first class mail.

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

3.1.2 Accessibility of the Application Process

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

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

The HACSB provides reasonable accommodation to the needs of individuals with disabilities upon request. The application-taking facility and the application process generally are fully accessible, but if at certain sites they are not, HACSB provides an alternate approach that provides equal access to the application process.

3.1.2.2 Limited English Proficiency [24 CFR 1]

HACSB takes reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency.

3.1.3 Placement on the Waiting List [24 CFR 960.208(a); PH Occ GB, p. 41]

The HACSB will review each completed application received and make a preliminary assessment of the family's eligibility. The HACSB will place on the waiting list families for whom the list is open unless the HACSB determines the family to be ineligible.

Where the family is determined to be ineligible, the HACSB must notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

3.1.3.1 Ineligible for Placement on the Waiting List

If the HACSB can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the HACSB will send written notification of the ineligibility determination within 30 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so.

3.1.3.2 Eligible for Placement on the Waiting List

The HACSB will send written notification of the preliminary eligibility determination within 30 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

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

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

3.2 Managing the Waiting List

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

3.2.1 Organization of the Waiting List

The HACSB's affordable housing waiting list is organized in such a manner to allow the HACSB to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP. The waiting list will contain the following information for each applicant listed:

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

The Housing Authority maintains site-based waiting list system for each affordable housing community. A family that applies to reside in affordable housing will be offered the opportunity to be placed on the waiting list for any tenant-based or project-based programs or moderate rehabilitation program that the HACSB operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other program.

As part of the voluntary transfer of the Public Housing program from the Upland Housing Authority (UHA) to HACSB on July 1, 2017, the applicants on the UHA Public Housing waiting list will be managed by HACSB in accordance with the policies of the ACOP.

3.2.2 Opening and Closing the Waiting List [PH Occ GB, p. 31]

HACSB may close the waiting list, in whole or in part, if there is an adequate pool of families to fill its developments. The HACSB may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit.

The HACSB will close the waiting list when the estimated waiting period for housing applicants on the list is adequate to fill vacancies within a reasonable time. Where the HACSB has particular preferences or other criteria that require a specific category of family, the HACSB may elect to continue to accept applications from these applicants while closing the waiting list to others.

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

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

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

San Bernardino area newspapers, including minority newspapers such as the El Chicano, Black Voices, Vietnamerican Magazine and the HACSB website

3.2.3 Family Outreach [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

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

Because HACSB is required to serve a specified percentage of extremely low income families, the Housing Authority may need to conduct special outreach to ensure that an adequate number of such families apply for affordable housing.

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

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

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

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

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

3.2.4 Reporting Changes in Family Circumstances

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

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

3.2.5 Updating the Waiting List [24 CFR 960.202(a)(2)(iv), 24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]

This section describes the policies HACSB will use when removing applicant names from the waiting list. The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the HACSB's request for information or updates because of the family member's disability, the HACSB will, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation.

3.2.5.1 Waiting List Purge

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely. To update the waiting list, the HACSB will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the HACSB has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list. An extension may be considered as a reasonable accommodation if requested in advance by a person with a disability. Notices will be made available in accessible format upon the request of a person with a disability.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HACSB no later than the due date on the HACSB letter. If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office, the applicant will be removed from the waiting list without further notice. The returned envelope and original letter will be maintained in the file.

When a family is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent the HACSB from making an eligibility determination; therefore no informal review is required.

If a family is removed from the waiting list for failure to respond, the Waiting List Administrator may reinstate the family if s/he determines the lack of response was due to HACSB error, or to circumstances beyond the family's control, such as:

- The Housing Authority verifies a family/health/work emergency, or
- The applicant failed to respond because of a family member's disability.

Periodically, applicants will call to check their status on the waiting list and learn that they have been cancelled because mail was returned as undeliverable. In extenuating circumstances, such as a long-term illness or other family emergency, the applicant may be reinstated. However, the registrant must be able to provide documentation of the circumstances. Such requests will be reviewed and approved (or denied) on a case-by-case basis.

3.2.5.2 Family Request for Removal

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

3.2.5.3 HACSB Determination of Ineligibility While on Waiting List

If the HACSB determines that the family is not eligible for admission at any time while the family is on the waiting list the family will be removed from the waiting list. If a family is removed from the waiting list because the HACSB has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the HACSB's decision.

3.3 Resident Selection [24 CFR 960.201(a), 24 CFR 903.2(d), 24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1), 24 CFR 960.206(e)(2) and 24 CFR 960.202(c)(2)]

The HACSB has established resident selection policies for families being admitted to affordable housing that are described in this section. The HACSB will not require any specific income or racial quotas for any developments and will not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations

The HACSB maintains a clear record of all information required to verify that the family is selected from the waiting list according to the HACSB's selection policies. The HACSB's policies are posted any place where the HACSB receives applications. The HACSB provides a copy of its resident selection policies upon request to any applicant or resident.

3.3.1 Preferences [24 CFR 960.206]

HACSB has established local preferences and to give priority to serving families that meet those criteria. These preferences are:

- A. Homeless family preference (exclusive to the Waterman Gardens development): a preference will be given to unsheltered homeless families with children, with priority to homeless families of veterans and active military personnel.
- B. Veterans Preference: A preference will be given to veterans or surviving spouses of veterans and active military personnel.
- C. Residency Preference: A preference will be given to families who reside in San Bernardino County in order to respond to local needs and priorities of the need for assisted housing in San Bernardino County. A family member who is working or who has been notified that they are hired to work in the San Bernardino County area will be treated as residents of San Bernardino County.
- D. A family displaced due to the revitalization, rehabilitation, demolition or disposition of a public or Indian housing project that had previously resided in a public housing project administered by HACSB.

3.3.2 Transfers from other HACSB Programs

In order to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities, the Housing Authority may relocate a family that is a current participant in any HACSB subsidized housing programs, including but not limited to: Affordable Housing Program or Housing Services program, with a disabled head of household or family member, to another HACSB housing program. Examples include:

- There are no affordable housing units to accommodate the family's household size based on occupancy standards
- There are no ADA/504 units available to accommodate the family's needs (i.e., customized wheelchair exceeds normal dimensions, other specialized equipment needs, etc.)

- There are no affordable units/communities that meet a medically necessary restriction or requirement
- There is a significant, identified barrier to that participant in the private market to finding and securing stable private sector housing that meets their disability needs, including but not limited to ADA complaint and mobility accessible units.

3.3.3 Income Targeting Requirement [24 CFR 960.202(b)]

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

As required by HUD regulations and HACSB's MTW Agreement with HUD, seventy-five percent (75%) of all new admissions will be required to meet the definition of a very low-income family. Admissions of very low-income families to the HACSB's Housing Services program during a HACSB fiscal year that exceed the 75% minimum target requirement for the program, shall be credited against the HACSB's basic targeting requirement in the affordable housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the affordable housing program must not exceed the lower of: (1) ten percent of affordable housing waiting list admissions during the HACSB fiscal year; (2) ten percent of waiting list admissions to the HACSB's Housing Services program during the HACSB fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of HACSB affordable housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

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

3.3.4 Mixed Population Developments [24 CFR 960.407]

A mixed population development is an affordable housing development or portion of a development that is reserved for elderly families and disabled families at its inception. Elderly family for a mixed population development means a family whose head, spouse, co-head, or sole member is a person who is at least 62 years of age. Disabled family

means a family whose head, spouse, co-head, or sole member is a person with disabilities. If the HACSB administers mixed population developments, the HACSB will give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The HACSB will not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the HACSB will first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The HACSB will not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

3.3.5 Units Designated for Elderly or Disabled Families [24 CFR 945]

The HACSB may designate communities or portions of communities specifically for elderly or disabled families but prior to the designation will obtain a HUD-approved allocation plan.

Among the designated developments, the HACSB will also apply any preferences that it has established. If there are not enough elderly families⁹ to occupy the units in a designated elderly development, the HACSB may allow near-elderly families to occupy the units. Near-elderly family means a family whose head, spouse, or co-head is at least 50 years old, but is less than 62.

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the HACSB must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days.

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse effect on their admission or continued occupancy in affordable housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area.

⁹ Although the Streamlined Lease Assistance program indicates elderly families are where the head, spouse or co-head is at least 57 years old, for the purposes of these units, elderly means where the head, spouse or co-head is at least 62 years old.

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy community or in a mixed population community.

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

The HACSB's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income residents into lower income communities and lower income residents into higher income communities. The HACSB's deconcentration policy must comply with its obligation to meet the income targeting requirement.

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) affordable housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by HACSB with fewer than 100 affordable housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by HACSB with only one general occupancy development; developments approved for demolition or for conversion to tenant-based affordable housing; and developments approved for a mixed-finance plan using HOPE VI or affordable housing funds.

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

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the HACSB must comply with the following steps:

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

Step 2. The HACSB must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the HACSB has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

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

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

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

Depending on local circumstances the HACSB's deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the HACSB in consultation with the residents and the community through the annual plan process to be responsive to local needs and HACSB strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the HACSB's deconcentration policy. The HACSB must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the HACSB's deconcentration policy.

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

3.3.7 Order of Selection [24 CFR 960.206(e)]

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

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

If no applicant qualifies for a unit size according to the occupancy standards described in Chapter 4, HACSB may offer a larger unit to a family than they qualify for in order to prevent vacancies. Families who agree to lease a unit larger than they qualify for will be required to certify that if an applicant who qualifies for the unit needs the larger size unit and a right-sized unit is available, the family will transfer to another unit at its own expense.

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

3.3.8 Notification of Selection

The HACSB will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

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

- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

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

3.3.9 The Application Interview

Families selected from the waiting list are required to participate in an eligibility interview. The head of household must attend the interview and all adult household members are encouraged to attend the interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the HACSB.

The interview will be conducted only if the head of household provides appropriate documentation of legal identity. If the head of household does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the HACSB will allow the family to retain its place on the waiting list for 60 days. If not all household members have disclosed their SSNs at the next time a unit becomes available, the HACSB will offer a unit to the next eligible applicant family on the waiting list.

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

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the HACSB will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP) applicants, the HACSB will provide translation services in accordance with the HACSB's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACSB in advance of the interview to schedule a new appointment. Depending on the unit utilization and number of waiting list applicants at each community, the HACSB may send another notification letter with a new interview appointment time. Applicants who fail to attend scheduled interviews without HACSB approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility.

The appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the HACSB from making an eligibility determination, therefore the HACSB will not offer an informal review.

3.3.10 Final Eligibility Determination [24 CFR 960.208]

The HACSB will verify all information provided by the family. Based on verified information related to the eligibility requirements, including HACSB suitability standards, the HACSB will make a final determination of eligibility.

When a determination is made that a family is eligible and satisfies all requirements for admission, including resident selection criteria, the applicant will be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

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

If the HACSB determines that the family is ineligible, the HACSB will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review.

CHAPTER 4

OCCUPANCY STANDARDS AND UNIT OFFERS

4 Introduction

This chapter contains policies for assigning unit size and making unit offers. The HACSB's waiting list and selection policies are contained in Chapter 3. Together, Chapters 3 and 4 of the ACOP comprise the HACSB's Tenant Selection and Assignment Plan (TSAP).

4.1 Occupancy Standards

Occupancy standards are established by the HACSB to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. These standards describe the methodology and factors the HACSB will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

4.1.1 Determining Unit Size [24 CFR 960.206(c)]

In selecting a family to occupy a particular unit, the HACSB will match characteristics of the family with the type of unit available, for example, number of bedrooms. Although the HACSB does determine the size of unit the family qualifies for under the occupancy standards, the HACSB does not determine who shares a bedroom/sleeping room. The HACSB's occupancy standards for determining unit size are applied in a manner consistent with fair housing requirements.

The HACSB uses the same occupancy standards for each of its communities, which are as follows:

- The Housing Authority will assign one bedroom to two people, regardless of gender, age or relationship of family members, within the following guidelines:
 - Head of household will not be required to share a bedroom with any other household members except that the head of household and spouse or co-habiting partner will share the same bedroom
 - Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

- Single person families will be allocated a zero or one bedroom.
- Foster children will be included in determining unit size.

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

Bedroom Size Determination Guidelines for Waiting List Placement		
Bedroom Size	Minimum Number of Persons	Maximum Number of Persons
0	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10

4.1.2 Exceptions to Occupancy Standards

The HACSB will consider granting exceptions to the occupancy standards at the family's request on a case-by-case basis if the HACSB determines the exception is justified by the health or disability of family members, or other personal circumstances and may require documentation supporting the exception request.

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

When evaluating exception requests the HACSB will consider the size and configuration of the unit. In no case will the HACSB grant an exception that is in violation of local housing or occupancy codes, regulations or laws. Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family

agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

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

4.1.2.1 Processing of Exceptions

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

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

Upon receipt of all information, the HACSB will notify the family of its decision within 30 business days.

4.2 Unit Offers [24 CFR 1.4(b)(2)(ii); 24 CFR 960.208]

This section describes the HACSB's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the HACSB's policies for offering units with accessibility features. The HACSB will assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination. In filling an actual or expected vacancy, the HACSB will offer the dwelling unit to an applicant in the appropriate sequence. The HACSB will offer the unit until it is accepted. The HACSB will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

4.2.1 Number of Offers

HACSB adopted a “one offer plan” for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size.

4.2.2 Time Limit for Unit Offer Acceptance or Refusal

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

4.2.3 Refusal of Unit Offers [PH Occ GB, p. 104]

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

- The family demonstrates to the HACSB’s satisfaction that accepting the unit offer will require an adult household member to quit a job. The family must provide verification of the job location.
- The family demonstrates to the HACSB’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy. These good cause refusals will only be considered when the family provides specific and compelling written documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, or stalking. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member. The HACSB will require the verification to be in writing from the health professional.
- The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

- The unit has lead-based paint and the family includes children under the age of six.
- An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the affordable housing waiting list [24 CFR 945.303(d)].

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

4.2.3.1 Unit Refusal Without Good Cause

When an applicant rejects the final unit offer without good cause, the HACSB will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal review and the process for doing so.

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

4.2.4 Accessible Units [24 CFR 8.27]

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

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

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

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

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the HACSB will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the HACSB will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

4.2.5 Designated Housing

When applicable, the HACSB's policies for offering units designated for elderly families only or for disabled families only are described in the HACSB's Designated Housing Plan.

CHAPTER 5

INCOME AND RENT DETERMINATIONS

5. Introduction

This chapter describes all policies related to income calculations and the calculation of family rent share for the Affordable Housing program.

5.1 Annual Income [24 CFR 5.609]

The Housing Authority generally includes all income received by all family members except for income that is specifically excluded. Annual income means all amounts, monetary or not which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or the regularly scheduled recertification effective date; and
- Are not specifically excluded.

For the purposes of initial eligibility, the Housing Authority also will calculate the amounts from assets to which any member of the family has access. These assets will be used to determine if the family exceeds the income limit threshold but will not be included for purposes of calculating total annual income or family rent share¹⁰.

The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].

¹⁰ HACSB's MTW Activity 5: Simplified Income Determination eliminates assets for the purposes of calculating the family's rent portion. However, asset income is verified at initial eligibility and used to determine income eligibility.

Summary of Income Included and Excluded by Person	
Foster children and foster adults ¹¹	Income for the care of a foster child or foster adult, including Kin GAP income, is included.
Head, spouse, or cohead and other adult family members	All sources of income not specifically excluded by the regulations are included, including adoption assistance payments ¹² .
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income is excluded [24 CFR 5.609(c)(11)]. ¹³ All other sources of income, except those specifically excluded by the regulations, are included.

5.1.1 Caretakers for a Child

If neither a parent nor a designated guardian remains in the unit, the HACSB will take the following actions.

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member, as long as the caretaker meets all HACSB eligibility criteria, unless information is provided that would confirm that

¹¹ HACSB's MTW Activity 5: Simplified Income Determination includes all income for the care of foster children.

¹² HACSB's MTW Activity 5: Simplified Income Determination includes all income from adoption assistance.

¹³ HACSB's MTW Activity 5: Simplified Income Determination excludes all earned income from Full-Time Students.

the caretaker's role is temporary. In such cases the HACSB will extend the caretaker's status as an eligible visitor.

- At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household, as long as caretaker meets all HACSB eligibility criteria.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

5.1.2 Anticipating Annual Income [24 CFR 5.609 and HCV GB, p. 5-17]

The HACSB generally will use current circumstances to determine anticipated income for the coming recertification period. HACSB may use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income)
- The HACSB believes that past income is the best available indicator of expected future income

When the HACSB cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACSB will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HACSB to show why the historic pattern does not represent the family's anticipated income.

5.1.2.1 Known Changes in Income

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the HACSB will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs.

5.1.3 Earned Income Included in Annual Income

This section describes the types of earned income that are included in annual income.

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

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

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

5.1.3.2 Some Types of Military Pay [24 CFR 5.609(b)(8)]

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

5.1.4 Types of Earned Income Not Counted in Annual Income

- This section describes the types of earned income that are not included in annual income.

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

Temporary, nonrecurring or sporadic income, including gifts, is not included in annual income. Sporadic income is income that is not received periodically and cannot be reliably predicted.

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

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income.

5.1.4.3 Earned Income of Full-Time Students [24 CFR 5.609(c)(11) and HCV GB, p. 5-29]¹⁴

Earnings for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

5.1.4.4 Income of a Live-In Aide [24 CFR 5.609(c)(5)]

Income earned by a live-in aide is not included in annual income.

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

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

¹⁴ HACSB's MTW Activity 5: Simplified Income Determination excludes all earned income from Full-Time Students.

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

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

5.1.4.7 State and Local Employment Training Program [24 CFR 5.609(c)(8)(v)]

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

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

The HACSB defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the HACSB will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HACSB's interim reporting requirements.

5.1.4.8 HUD-Funded Training Program [24 CFR 5.609(c)(8)(i)]

Amounts received under training programs funded in whole or in part by HUD are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD. To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.

5.1.4.9 Earned Income Tax Credit [24 CFR 5.609(c)(17)]

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

5.1.4.10 Earned Income Disallowance

There is no earned income disallowance for families participating in the Affordable Housing program.¹⁵

5.1.5 Business Income [24 CFR 5.609(b)(2)]

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

5.1.5.1 Business Expenses [HCV GB, p. 5-19]

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

¹⁵ HACSB's MTW Activity 5: Simplified Income Determination eliminates the Earned Income Disallowance for MTW programs.

5.1.5.2 Business Expansion

HUD regulations do not permit the HACSB to deduct from gross income expenses for business expansion. Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

5.1.5.3 Capital Indebtedness

HUD regulations do not permit the HACSB to deduct from gross income the amortization of capital indebtedness. *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HACSB will allow as a business expense interest, but not principal, paid on capital indebtedness.

5.1.5.4 Negative Business Income

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

5.1.5.5 Withdrawal of Cash or Assets from a Business

HUD regulations require the HACSB to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family. Acceptable investments in a business include cash loans and contributions of assets or equipment.

5.1.5.5.1 Co-Owned Business

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

5.1.6 Assets [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

For the purposes of initial eligibility, the Housing Authority will calculate the amounts from assets to which any member of the family has access. These assets will be used to

determine if the family exceeds the income limit threshold but will not be included for purposes of calculating total annual income or family rent share¹⁶.

5.1.6.1 Assets Overview

Assets will be calculated using the policies in this Section. HUD requires that the Housing Authority include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the Housing Authority must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

5.1.6.2 General Policies

The Housing Authority generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the Housing Authority to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the Housing Authority believes that past income is the best indicator of anticipated income.

5.1.6.3 Valuing Assets [HCV GB, p. 5-28]

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

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.
- Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

¹⁶ HACSB’s MTW Activity 5: Simplified Income Determination eliminates assets for the purposes of calculating the family’s rent portion. However, asset income is verified at initial eligibility and used to determine income eligibility.

5.1.6.4 Lump Sum Receipts [RHIP FAQs]

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account).

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

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

5.1.6.6 Determining Actual Anticipated Income from Assets

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

5.1.6.7 Withdrawal of Cash or Liquidation of Investments

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

5.1.6.8 Jointly Owned Assets

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Housing Authority will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Housing Authority will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Housing Authority will prorate the asset evenly among all owners.

5.1.6.9 Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b) and HCV GB, p.5-27]

HUD regulations require the Housing Authority to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of initial eligibility or recertification, except as noted below.

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

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments. The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms. Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

5.1.6.10 Types of Assets

5.1.6.10.1 Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero. In determining the value of a checking and savings account, the Housing Authority will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the Housing Authority will multiply the value of the account by the current rate of interest paid on the account.

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

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

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

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

5.1.6.10.3 Equity in Real Property or Other Capital Investments [HCV GB, p. 5-25]

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset. In determining the equity, the Housing Authority will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The Housing Authority will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the Housing Authority will use the basic loan balance information to deduct from the market value in the equity calculation. Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the Housing Services program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]

- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]
- The Housing Authority must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

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

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

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

5.1.6.10.4 Trusts [HCV GB, p. 5-25]

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

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to

the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

5.1.6.10.5 Retirement Accounts [HCV GB, p.5-26]

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the Housing Authority must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

5.1.6.10.6 Personal Property [24 CFR 5.603(b) and HCV GB, p. 5-26]

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, the Housing Authority will use the family's estimate of the value. The Housing Authority may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)]. Necessary personal property consists of only those items not held as an investment, and

may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

5.1.6.10.7 Life Insurance [HCV GB, p.5-26]

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

5.1.7 Periodic Payments

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

5.1.7.1 Periodic Payments Included in Annual Income

Periodic Payments Included in Annual Income

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

5.1.7.3 Treatment of Overpayment Deductions from Social Security Benefits

When the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in

full, HACSB will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

5.1.7.4 Periodic Payments Excluded from Annual Income

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

5.1.7.5 Payments in Lieu of Earnings [24 CFR 5.609(b)(5)]

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts.

5.1.8 Welfare Assistance

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

The Housing Authority must make a special calculation of annual income when the welfare agency imposes certain sanctions families.¹⁷ This rule applies only if a family was receiving affordable housing assistance at the time the sanction was imposed.

The Housing Authority must include in annual income “imputed” welfare income when a welfare agency imposes a sanction that reduces a family’s welfare income because of one of the following:

- Fraud by a family member in connection with the welfare program; or
- Failure to participate in an economic self-sufficiency program; or
- Noncompliance with a work activities requirement.

HACSB will also include in annual income imputed welfare income when the sanction is the result of:

- A situation where a family member has not complied with other welfare agency requirements.

The imputed income is the amount the family would have received if the family had not been sanctioned. This requirement does not apply to reductions in welfare benefits where one of the following has occurred:

- The expiration of a lifetime time limit on receiving benefits;
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as in a case where the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

The Housing Authority will obtain written verification from the welfare agency stating that the family’s benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements. The welfare agency, at the request of the Housing Authority, will inform the Housing Authority of:

¹⁷ HACSB’s MTW Activity 5: Simplified Income Determination allows for all welfare income to be counted, regardless of certain sanctions.

- The amount and term of specified welfare benefit reduction for the family;
- The reason for the reduction; and
- Subsequent changes in term or amount of reduction.

The Housing Authority has a written memorandum of understanding in place with the local welfare agency which assists the Housing Authority in obtaining the necessary information regarding welfare sanctions.

The Housing Authority and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit program participants.

5.1.9 Periodic and Determinable Allowances [24 CFR 5.609(b)(7)]

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

5.1.9.1 Alimony and Child Support [HCV GB, pp. 5-23 and 5-47]

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

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

5.1.9.2 Regular Contributions or Gifts [24 CFR 5.609]

The HACSB must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a resident family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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

5.1.10 Additional Exclusions from Annual Income

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 12/14/12 that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 12/14/12]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 - (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al*
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (q) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

- (s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (t) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
- (v) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

5.2 Adjusted Income

5.2.1 Streamlined Lease Assistance Program

- For families participating in the Streamlined Lease Assistance program, there are no adjustments to annual income.

5.2.2 Transitional Assistance for MTW Families

- For families who are not yet participating in Streamlined Lease Assistance, there are 5 adjustments to annual income.

5.2.2.1 Dependent Deduction [24 CFR 5.611(a)(1)]

- A deduction of \$480 is taken for each dependent.

5.2.2.2 Elderly or Disabled Family Deduction [24 CFR 5.611(a)(1)]

A single deduction of \$400 is taken for any elderly or disabled family.

5.2.2.3 Medical Expense Deduction [24 CFR 5.611(a)(3)(i)]

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

The medical expense deduction is permitted only for elderly or disabled families. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.” The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

The Housing Authority will allow as medical expense the actual out-of-pocket amounts which are owed and anticipated to be paid by the family during the re-examination period. Expenses from the previous year may be analyzed to determine the amount to anticipate when other verification is not available.

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnished legible receipts. Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses. Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

5.2.2.4 Disability Assistance Expenses Deduction [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

For families who qualify for both medical and disability expenses deduction, when expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Housing Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

5.2.2.5 Child Care Expense Deduction [24 CFR 5.603(b)]

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

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

5.2.2.5.1 Eligible Activities

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

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

5.2.2.5.2 Seek Employment

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

5.2.2.5.3 Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-

time student, but the time spent in educational activities must be commensurate with the child care claimed.

5.2.2.5.4 Gainful Employment

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated. When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

The HACSB must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

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

5.2.2.5.5 Eligible Expenses

The type of care to be provided is determined by the family. The HACSB may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

5.2.2.5.6 Allowable Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HACSB will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

5.2.2.5.7 Necessary and Reasonable Costs

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

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

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

5.3 Calculating Rent

Families participating in the Streamlined Lease Assistance and the Transitional Assistance for MTW Families have their rent calculated differently. This section describes how rent is calculated for both family types.

5.3.1 Streamlined Fixed Lease Assistance for Elderly/Disabled Families

For families initially joining this program on or before December 31, 2018, HACSB will calculate family rent by selecting the largest of 24% of monthly annual income, the baseline rent, or the minimum rent. For families initially joining this program on or after January 1, 2019, (or as soon as practicable thereafter) HACSB will calculate family rent share by selecting the largest of thirty percent (30%) of monthly annual income, the baseline rent, or the minimum rent. The minimum rent is \$125 for the Streamlined Fixed

Lease Assistance for Elderly/Disabled Families program. Families will no longer have the option to be placed on the flat rent. This also applies to the former Upland Housing Authority (UHA) elderly/disabled families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future ACOP references to Streamlined Fixed Lease Assistance families will also apply to these former UHA families.

5.3.2 Streamlined Tiered Lease Assistance for Career-Focused Families

The Housing Authority has established a tiered rent schedule for participants in the Streamlined Tiered Lease Assistance Program.¹⁸ During the first year a family participates in the Streamlined Tiered Lease Assistance program, the rent will be the higher of 21% of annual income or the minimum rent. The minimum rent is \$125 for the Streamlined Tiered Lease Assistance program. This also applies to the former Upland Housing Authority (UHA) career focused families as a result of the voluntary transfer on July 1, 2017 with a recertification date of January 1, 2018 or later; future ACOP references to Streamlined Tiered Lease Assistance families will also apply to these former UHA families.

At the first regularly scheduled recertification, a family's rent will be calculated based on the larger of the following:

- applicable rent tier percentage multiplied by monthly annual income, or
- the highest family rent previously calculated for the family (the baseline rent); or
- the minimum rent.

The rent tier starts at 21% of monthly annual income and increases 3% at every regularly scheduled biennial recertification to a maximum rent tier of 30% of monthly annual income. A family's rent may never drop below the highest family rent amount and a family may no longer be placed on the flat rent. Examples of rent tiers are included in the chart below:

¹⁸ Ibid.

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THE SMITH FAMILY (EXAMPLE)				
	First Biennial Recertification (21%)	Second Biennial Recertification (24%)	Third Biennial Recertification (27%)	Fourth Biennial Recertification (30%)
Smith Family Monthly Annual Income	\$833	\$1000	\$1000	\$500
Smith Family Rent Share	\$175	\$240	\$270	\$270

THE BELL FAMILY (EXAMPLE)				
	First Biennial Recertification (21%)	Second Biennial Recertification (24%)	Third Biennial Recertification (27%)	Fourth Biennial Recertification (30%)
Bell Family Monthly Annual Income	\$300	\$300	\$1200	\$700
Bell Family Rent Share	\$125	\$125	\$324	\$324

5.3.3 Streamlined Fixed Lease Assistance for Career-Focused Families Program

The Housing Authority will calculate family rent by selecting the greatest of thirty percent (30%) of monthly annual income, the baseline rent, or the minimum rent.¹⁹

5.3.4 Hardship Exemption Criteria for Streamlined Lease Assistance Programs

HACSB recognizes that under some circumstances, families may experience a hardship that makes it challenging to pay the applicable rent under the Streamlined Lease Assistance Program. Hardship exemption criteria have been developed for all families that see a significant increase in their portion as a direct result of the SLA calculation at initial implementation of the activity or experience certain expenses or losses of income while participating in the program. In order for families to be eligible for a hardship exemption, they must make their request for a hardship exemption in writing and be in compliance with all program rules and regulations. The request for hardship exemption must come no later than 60 days after the change in circumstances. Families also must provide all supporting documents regarding their case and all requests for hardship exemption will be reviewed by the Hardship Review Committee. After the committee has evaluated the family's request, they will determine if the family qualifies for a temporary or permanent hardship exemption. The following sections describe the types of hardship

¹⁹ The FY 2016 MTW Plan modified Activity 23: Streamlined Lease Assistance to include the Fixed Lease Assistance for Career-Focused Families program.

exemptions that may be granted. All non-elderly/non-disabled households approved for a temporary hardship exemption will be required to participate in the Career Development Initiatives case management activities.

5.3.4.1 Permanent Hardship Exemptions

A permanent hardship exemption may be approved for the following reasons:

- the family experiences a death of a household member with income;
- any income-earning member of the assisted family no longer remains in the unit;
- An elderly or disabled household experiences a permanent loss of income.
- Unforeseen and involuntary permanent loss of income for a family member under the age of 18.

If a permanent hardship exemption has been approved, HACSB will reset the family's previous highest rent share (the "baseline rent") by recalculating the family's income and applying the applicable rent percentage. For example, for families participating in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program, the new monthly income will be multiplied by twenty-four percent (24%) to determine the new monthly rent share. For families participating in the Streamlined Tiered Lease Assistance for Career-Focused Families program, the new monthly income will be multiplied by the most recent tiered rent percentage established at recertification to determine the new monthly rent share.

5.3.4.2 Temporary Hardship Exemptions

HACSB also recognizes that certain hardships may exist on a temporary basis. The temporary relief that HACSB will offer families depends on the type of hardship being experienced by the family. Families initially leasing under the Streamlined Lease Assistance Program may qualify for a temporary hardship exemption upon verification that the family has no household income. No more than one temporary hardship exemption may be requested within a 12 month period. The table below describes each type of temporary hardship exemption that may be approved by the Housing Authority.

Temporary Hardship Reason	Temporary Hardship Exemption Relief
Unforeseen involuntary loss of employment or unforeseen loss of income due to major	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will

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illness as determined by a medical professional.	revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification. The 6 month exemption period can be extended another 6 months if the length of the illness is longer than the initial 6 months.
Significant medical expenses over \$2,500 for single medical event for Streamlined Fixed families only.	Family's income will be recalculated at a 5% reduction to the fixed percentage and for 6 months the family's rent will be based upon that percentage or the minimum rent, whichever is higher.
Unforeseen involuntary permanent loss of income for an adult family member who is attending high school.	Family's income will be recalculated and for 6 months the family's rent will be based upon most recent percentage established at recertification or the minimum rent, whichever is higher. HACSB will provide a 60 day notice that the rent will revert to the previous rent amount at the end of the 6 months. The family's income will not be re-reviewed until the next recertification.

If the temporary hardship is due to loss of income, the income of the family member, who experienced the income loss, will be removed from the family income, and the rent amount will be based on the remaining family income. Because the family is not required to report interim income changes, the source of income to be removed under the hardship exemption may differ from the reported income change. At the end of the six month exemption period, the income that had been removed will be added back to the family income and will not be recalculated.

For example, the last reported income may have been self-employment of \$1,000 per month. However, since the last recertification the family member ended self-employment and started receiving a regular wage of \$2,000 per month. This interim change was not required to be reported by the family. Now, the family is reporting an unforeseen involuntary loss of employment. The hardship exemption would remove the \$1,000 per month self-employment from the family income, and after six months the \$1000 would be added back to the family income.

5.3.4.3 Pre-Implementation Hardship Exemptions

Prior to implementation of the Streamlined Lease Assistance programs, HACSB conducted a detailed data analysis. As part of that data analysis, certain households were determined to be likely to experience a disproportionate impact as the result of the implementation. This temporary hardship exemption would allow the family to maintain their previous total family rent share for up to six (6) months. HACSB would send a sixty

(60) day notice that the family would be subject to the new streamlined calculation at the end of six (6) months. If approved, P.I.U. will determine the amount and effective timeline for the hardship exemption request.

5.3.5 Transitional Assistance for MTW Families [24 CFR 960.253]

The total tenant payment (TTP) for a household is determined by using the largest of the following: 10% of Monthly Annual Income, 30% of Monthly Annual Adjusted Income or the applicable minimum rent. If the TTP exceeds the flat rent for the unit, the family will automatically be charged the flat rent.²⁰

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the HACSB determines that a financial hardship exists, the HACSB must immediately allow the family to switch from flat rent to the income-based rent.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

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

²⁰ The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation.

5.4 Utility Allowance and Utility Reimbursement Payments [24 CFR 982.154 and 982.517]

5.4.1 Streamlined Lease Assistance Programs

The utility allowance has been built into the calculation for family rent share for the Streamlined Lease Assistance Programs. There is no additional utility allowance or any utility reimbursement payments²¹.

5.4.2 Transitional Assistance for MTW Families [24 CFR 965, Subpart E]

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

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

On request from a family, HACSB 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 with a disability [PH Occ GB, p. 172]. Residents with disabilities will 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].

5.5 Proration of Assistance for “Mixed” Families [24 CFR 5.520]

5.5.1 Applicability

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The HACSB must prorate the assistance provided to a mixed family. The HACSB will first determine rent as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the HACSB must:

²¹ The FY 2011 and FY 2013 Moving to Work Annual Plans included Activity 20: Five Year Lease Assistance and Activity 23: Streamlined Lease Assistance programs, respectively. Both programs have the utility allowances already factored in to the calculation.

- Subtract the rent from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- Multiply the member maximum subsidy by the number of eligible family members.
- Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated rent.
- Subtract the utility allowance for the unit from the prorated rent. This is the prorated rent for the mixed family.

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

Mixed families who pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated.

If the flat rent is greater than or equal to the maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit. If the flat rent is less than the maximum rent, the mixed family will pay the prorated flat rent.

5.6 Minimum Rent [24 CFR 5.630 and 5.630]

The Minimum Rent for the Streamlined Lease Assistance and Transitional Assistance for MTW Families programs is \$125.00.²² A policy has been established for a temporary waiver from the minimum rent for families who demonstrate a hardship in paying the required minimum amount. Families may request a temporary waiver to the minimum rent by completing the Minimum Rent Waiver Request Form and providing documentation that supports the hardship for the family. In order to qualify for a temporary waiver, the family's income must have decreased due to a no fault loss of income or the death of a household member with income.

²² The FY 2009 Moving to Work Annual Plan included Activity 10: Minimum Rent which established a minimum rent of \$125 for all Housing Services programs except Traditional, Regulatory Assistance for Special Purpose Programs.

CHAPTER 6

VERIFICATIONS

6. Introduction [24 CFR 960.259, 24 CFR 5.230 and Notice PIH 2010-19]

The HACSB must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and residents must cooperate with the verification process as a condition of receiving assistance. The HACSB must not pass on the cost of verification to the family. The HACSB will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD.

6.1 General Verification Requirements [24 CFR 960.259 and 24 CFR 5.230]

The family must supply any information that the HACSB or HUD determines is necessary to the administration of the program and must consent to HACSB verification of that information [24 CFR 960.259(a)(1)].

6.1.2 Family Consent to Release Information

It is required that all adult applicants and residents sign form HACSB-9886, Authorization for Release of Information. The purpose is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form²³. HUD and the HACSB may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

6.1.3 Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the HACSB will deny admission to applicants and terminate the lease of residents.

²³ Add that HACSB 9886 form.

6.1.4 Overview of Verification Requirements [Notice PIH 2010-19]

The Housing Authority will require households to provide documentation for the factors described in this section at recertification and interim recertification as applicable.

For income sources that are available for verification in HUD's Enterprise Income Verification (EIV) system or other available Up-Front Income Verification (UIV) systems, HACSB will compare the documents provided by the household with the information in the EIV/UIV systems. Currently, income sources that are available in EIV include income from wages, unemployment benefits, Social Security, and Supplemental Security Income. Income sources that may be available through other UIV systems include Temporary Assistance to Needy Families and income from wages through the Work Number.

If there is a discrepancy of \$300 or more per month between the documents provided by the household and the EIV/UIV system, HACSB will require third-party written verification of the income. If the Housing Authority is unable to obtain third-party written verification it will then attempt to receive third-party oral verification. If those attempts are unsuccessful, HACSB will rely on the documents provided by the household to calculate income.

If there is a discrepancy of less than \$300 per month between the documents provided by the household and the EIV/UIV system, HACSB will calculate income based on the most recent verification of the source and the associated amount of income from that source.

If data that is generally available in the UIV/EIV systems is not available due to recent employment or other unknown reasons, HACSB will rely on documents provided by the assisted family.

For all income sources that are not generally available in EIV/UIV, HACSB will rely on documents provided by the household. However, the Housing Authority reserves the right to conduct third-party verification on all income sources. Families must provide documentation to support all sources of income except for fully excluded income sources. If a household does not provide supporting documentation it is a violation of family obligations and the participant may lose their housing assistance. If the Housing Authority, at its discretion chooses to further verify an income source, it will attempt to first obtain third-party written verification. If that attempt to receive verification is unsuccessful, HACSB will request third-party oral verification. If those attempts are unsuccessful,

HACSB will rely on the documents provided by the household to calculate income or family self-certification where applicable.²⁴

Per PIH Notice 2013-04, HACSB will accept an applicant or participant's self-certification of fully excluded income sources (such as food stamps) and the related income amounts on the initial application and recertification packets. HACSB is not required to (1) Verify the income in accordance with the HUD-prescribed verification hierarchy; (2) Document in the tenant file why third party verification was not available as required by 24 CFR 960.259(c)(i) and 24 CFR 982.516(a)(2); and (3) Report the income in Section 7 of the form HUD-50058. Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

For initial eligibility, HACSB verifies assets. The HACSB will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

In addition to the income verification policies described above, each family member age 18 and older will be asked if there has been any update in criminal activity. If there has been any change in criminal activity, the Housing Authority will obtain verification.

6.1.5 Requirements for Acceptable Documents

Generally, documents used for verification must be the original and generally must be dated within 120 days of the date they are provided to the HACSB. The documents must not be damaged, altered or in any way illegible. Print-outs from web pages are considered original documents.

The HACSB staff member who views the document may make a photocopy and date stamp the document. Any family self-certifications must be made in a format acceptable to the HACSB and must be signed in the presence of a HACSB representative or HACSB notary public.

²⁴ HACSB's MTW Activity 5: Simplified Income Determination created a modified verification hierarchy for HACSB's MTW programs.

6.2 Verifying Family Information

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HACSB.

The HACSB may require a family to certify that a family member does not receive a particular type of income or benefit. The self-certification must be made in a format acceptable to the HACSB and must be signed by the family member whose information or status is being verified.

6.2.1 Verification of Legal Identity

The Housing Authority requires each household member to provide one of the following forms of verification of legal identity:

Verification of Legal Identity	
Adults	Children
Certificate of birth, naturalization papers	Certificate of birth
Current, valid driver's license or Department of Motor Vehicles identification card	Adoption papers
U.S. military discharge (DD 214)	Custody agreement
U.S. passport	Health and Human Services ID
	School records

If none of these documents can be provided and at the Housing Authority's discretion, a third party who knows the person may attest to the person's identity. Legal identity will be verified on an as needed basis.

6.2.2 Social Security Numbers [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The HACSB must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The HACSB may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

The HACSB will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HACSB within 90 days. When the resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The HACSB may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the HACSB determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the HACSB is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

The HACSB will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

6.2.3 Documentation of Age

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACSB will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification. Age must be verified only once during continuously-assisted occupancy.

6.2.4 Family Relationships

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter. Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

6.2.4.1 Marriage

Certification by the head of household is normally sufficient verification. If the HACSB has reasonable doubts about a marital relationship, the HACSB will require the family to document the marriage. A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

6.2.4.2 Separation or Divorce

Certification by the head of household is normally sufficient verification. If the HACSB has reasonable doubts about a separation or divorce, the HACSB will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced. A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.

6.2.4.3 Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

6.2.4.4 Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

6.2.5 Student Status

The HACSB requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care deduction to enable a family member to further his or her education.

6.2.6 Documentation of Disability

The HACSB must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HACSB is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HACSB may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACSB receives a verification document that provides such information, the HACSB will not place this information in the resident file. Under no circumstances will the HACSB request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The HACSB may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

6.2.6.1 Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability payments from the SSA, the HACSB will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the HACSB will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the HACSB will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to the HACSB.

6.2.6.2 Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

6.2.7 Citizenship or Eligible Immigration Status [24 CFR 5.508]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the

documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

6.2.7.1 U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACSB receives information indicating that an individual's declaration may not be accurate. The HACSB may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

6.2.7.2 Eligible Immigrants

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HACSB must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). The HACSB will follow all USCIS protocols for verification of eligible immigration status.

6.2.8 Verification of Preference Status

HACSB will verify each preference according to the criteria in the following chart:

Housing Authority of the County of San Bernardino

Affordable Housing Programs ACOP

Revised: February 2021

Preference Verification	
Preference	Verification Method
Homeless family preference (exclusive to the Waterman Gardens development): a preference will be given to chronically homeless families with children, with priority to homeless families of veterans and active military personnel.	Referral from shelter, emergency shelter, food bank, school district or other similar entity. For veterans, use of the verification for veterans below.
Veterans Preference: A preference will be given to veterans or surviving spouses of veterans and active military personnel	DD-214, government issued documentation (e.g. active military card, proof of veteran's income)
Residency Preference: A preference will be given to families who reside in San Bernardino County in order to respond to local needs and priorities of the need for assisted housing in San Bernardino County. A family member who is working or who has been notified that they are hired to work in the San Bernardino County area will be treated as residents of San Bernardino County.	Residence: Utility bill, credit report, government issued ID Employment: Pay stubs, letter from employer, third party form verification

6.3 Verifying Income and Assets

This sections provides HACSB policies that supplement the general verification procedures specified earlier in this chapter.

6.3.1 Earned Income

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

6.3.2 Business and Self Employment Income

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses

must be submitted and the business owner or self-employed person must certify to its accuracy.

- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- The HACSB will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HACSB may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

6.3.3 Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the HACSB will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HACSB will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to the HACSB.

To verify the SS/SSI benefits of residents, the HACSB will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the HACSB will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, the HACSB will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the HACSB.

6.3.4 Alimony or Child Support

The way the HACSB will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments. If the family declares that it **receives regular payments**, verification will be sought in the following order.

- Copy of the print out from the overseeing entity, receipts and/or payment stubs for the 60 days prior to HACSB request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received

If the family declares that it **receives irregular or no payments**, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Families are not required to undertake independent enforcement action.

6.3.5 Assets and Income from Assets

HACSB only verifies assets at initial eligibility and this section describes how those assets will be verified.

6.3.5.1 Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HACSB needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28]. The HACSB will verify the value of assets disposed of only if:

- The HACSB does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

6.3.5.2 Net Income from Rental Property

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current resident
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HACSB will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

6.3.5.3 Retirement Accounts

The HACSB will accept written third-party documents supplied by the family as evidence of the status of retirement accounts. The type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the HACSB will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, the HACSB will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the HACSB will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

6.3.6 Income from Excluded Sources [PIH Notice 2013-04]

The HACSB must obtain verification for income exclusions only if, without verification, the HACSB would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HACSB will confirm that HACSB records verify the child's age but will not require third-party verification of the amount earned.

6.3.7 Zero Income Status

The HACSB will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

6.4 Deductions

This section describes the verification of deductions, where applicable.

6.4.1 Dependent Deduction

6.4.1.1 Streamlined Lease Assistance Programs

There is no dependent deduction for the Streamlined Lease Assistance programs.

6.4.1.2 Transitional Assistance for MTW Families Program

The dependent deduction requires only that the Housing Authority verify that the family members identified as dependents meet the statutory definitions. The Housing Authority must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family²⁵
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

6.4.2 Elderly/Disabled Family Deduction

6.4.2.1 Streamlined Lease Assistance Programs

There is no elderly household deduction for the Streamlined Lease Assistance programs.

6.4.2.2 Transitional Assistance for MTW Families Program

The Housing Authority verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

²⁵ HACSB's MTW Activity 5: Simplified Income Determination includes foster children and adults as family members.

6.4.3 Medical Expense Deduction

6.4.3.1 Streamlined Lease Assistance Programs

There is no medical expense allowance for the Streamlined Lease Assistance programs.

6.4.3.2 Transitional Assistance for MTW Families Program

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The Housing Authority will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Housing Authority will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the Housing Authority must verify that:

- The household is eligible for the deduction.
 - The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities.
- The costs to be deducted are qualified medical expenses.
 - Chapter 5 includes the Housing Authority's policy on what counts as a medical expense.
- The expenses are not paid for or reimbursed by any other source.
 - The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.
- Costs incurred in past years are counted only once.
 - When anticipated costs are related to on-going payment of medical bills incurred in past years, the Housing Authority will verify:
 - The anticipated repayment schedule

- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

6.4.4 Disability Assistance Expenses

6.4.4.1 Streamlined Lease Assistance Programs

There is no disability assistance allowance for the Streamlined Lease Assistance programs.

6.4.4.2 Transitional Assistance for MTW Families Program

The Housing Authority must verify the following for attendant care and auxiliary apparatus expenses:

- The Housing Authority will accept written third-party documents provided by the family.
- If family-provided documents are not available, the Housing Authority will provide a third-party verification form directly to the care provider requesting the needed information.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

In addition, the Housing Authority must verify that:

- The family member for whom the expense is incurred is a person with disabilities
- The expense permits a family member, or members, to work
 - The Housing Authority will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. This verification can be obtained through resident provided documents or directly from the third-party.
 - If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.
- The expense is not reimbursed from another source

- The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

6.5 Child Care Expenses Allowance

6.5.1 Streamlined Lease Assistance Programs

There is no child care allowance for the Streamlined Lease Assistance programs.

6.6 Transitional Assistance for MTW Families Program

The amount of the deduction will be verified following the standard verification procedures described in this Chapter. In addition, the HACSB must verify that:

- The child is eligible for care.
 - The HACSB will verify that the child being cared for (including foster children) is under the age of 13
- The costs claimed are not reimbursed.
 - The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.
- The costs are for an allowable type of child care.
 - The Housing Authority will verify that the type of child care selected by the family is allowable, as described in Chapter 5.
 - The Housing Authority will verify that the fees paid to the child care provider cover only child care costs and are paid only for the care of an eligible child.
 - The Housing Authority will verify that the child care provider is not an assisted family member.
- The costs are reasonable.
 - The actual costs the family incurs will be compared with the Housing Authority's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.
- The costs enable a family member to pursue an eligible activity.
 - The HACSB must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

- Seeking Work - Whenever possible the HACSB will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Housing Authority will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to the Housing Authority any reports provided to the other agency. In the event third-party verification is not available, the Housing Authority will provide the family with a form on which the family member must record job search efforts.
- Furthering Education - The Housing Authority will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.
- Gainful Employment - The Housing Authority will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

6.7 Verifying Certain Program Eligibility Criteria

Affordable Housing programs have unique eligibility criteria for participation. This section highlights how the Housing Authority will verify key program qualifying criteria.

6.7.1 Streamlined Fixed Lease Assistance Program

The Housing Authority will verify that the head, spouse, or co-head is 57 years of age or older or a person with disabilities. Only applicants after November 1, 2014 and existing qualifying participants that have a recertification date of February 1, 2015 or later are eligible for Streamlined Fixed Lease Assistance.

6.7.2 Streamlined Tiered Lease Assistance Program

The Housing Authority will verify that the head, spouse, or co-head is not 57 years of age or older or a person with disabilities. Only existing participants as of November 1, 2014 are eligible for Streamlined Tiered Lease Assistance and existing qualifying participants

that have a recertification date of February 1, 2015 or later are eligible for the Streamlined Tiered lease Assistance program.

6.7.3 Transitional Assistance for MTW Families Program

The Housing Authority will verify that the household is an existing resident who has not yet been recertified into the Streamlined Lease Assistance programs.

CHAPTER 7

LEASING AND INSPECTIONS

7. Introduction

Affordable housing leases are the basis of the legal relationship between the HACSB and the resident. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations. HACSB will inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the HACSB requires additional inspections in accordance with HACSB policy. This chapter describes the leasing and inspection policies of HACSB.

7.1 Leasing [24 CFR 966.4(a)(2)]

An eligible family may occupy an affordable housing dwelling unit under the terms of a lease. The HACSB lease meets all regulatory requirements, and will also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease will be renewed automatically for another 12-month term, except that the HACSB may not renew the lease if the family has violated the community service requirement.

7.1.1 Lease Orientation

After unit acceptance but prior to occupancy, a HACSB representative will provide a lease orientation to the family. All adult household members will be required to attend. When families attend the lease orientation, they will be provided with:

- A copy of the lease with house rules incorporated
- A copy of the HACSB's informal settlement conference procedure
- A copy of the HACSB's schedule of maintenance charges
- A copy of the pamphlet *Protect Your Family From Lead in Your Home*
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- Information about the protections afforded by the Violence against Women Reauthorization Act of 2013 (VAWA) 2013 to victims of domestic violence, dating violence, sexual assault, and stalking

- A copy of the Notice of Occupancy Rights under the VAWA HUD Form 5380
- Information about how to request a Reasonable Accommodation
- Move-in inspection form

Topics to be discussed at the lease orientation will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- The HACSB's reporting requirements
- Explanation of occupancy forms
- HACSB rent policies
- VAWA protections
- For Smoke-Free communities, review of Smoke Free addendum

7.1.2 Execution of Lease [24 CFR 966.4(a)(3) and 24 CFR 966.4(a)(1)(v)]

The lease is executed by the resident and the HACSB, except for automatic renewals of a lease. A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one HACSB unit to another. The lease states the composition of the household as approved by the HACSB (family members and any HACSB-approved live-in aide).

The head of household, spouse or co-head, and all other adult members of the household will be required to sign the affordable housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the HACSB will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to HACSB assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the resident family member.

7.1.3 Modifications to the Lease [24 CFR 966.4(a)(3), 24 CFR 966.3, 24 CFR 966.4(l)(2)(iii)(E) and 24 CFR 966.5]

The lease may be modified at any time by written agreement of the resident and the HACSB. The HACSB may modify its lease from time to time. As required by HUD regulations, HACSB will give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The HACSB will also consider any comments before formally adopting the new lease.

After proposed changes have been incorporated into the lease and approved by the Board, each family will be notified at least 60 days in advance of the effective date of the new lease or lease revision, as required by HUD regulations. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations will be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. When the HACSB proposes to modify or revise schedules of special charges or rules and regulations, the HACSB will post a copy of the notice in the lobby, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Comments must be taken into consideration before any proposed modifications or revisions become effective. After the proposed revisions become effective they will be publicly posted in a conspicuous manner in the community office and must be furnished to applicants and residents on request.

7.1.3.1 Changes in Family Composition

The lease will be amended to reflect all changes in family composition. A notice of change will be created and mailed to the family that lists the new family composition. Documentation of notice of change will be included in each resident file. Policies governing when and how changes in family composition must be reported are contained in the Recertifications chapter.

7.1.4 Holding and Security Deposits [24 CFR 966.4(b)(5)]

After the family has accepted a unit offer, the family will be required to pay a \$200 refundable holding deposit. If the family moves in at the agreed upon move-in date, the \$200 holding deposit will be credited toward the security deposit. If the family does not move into the unit on the agreed upon move-in date, the holding deposit will be prorated for each day after the agreed upon move-in date.²⁶

Residents must pay a security deposit to the HACSB at the time of admission. The amount of the security deposit will be equal to the unit's flat rent. The HACSB will hold the security deposit for the period the family occupies the unit. The HACSB will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the HACSB will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The HACSB will provide the resident with a written list of any charges against the security deposit within 21 business days of the move-out inspection. If the resident disagrees with the amount charged, the HACSB will provide a meeting to discuss the charges.

If the resident transfers to another unit, the HACSB will not transfer the security deposit to the new unit. The resident must pay the security deposit for the new unit. An exception may be made for reasonable accommodation transfers.

7.1.5 Payments Under the Lease [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly resident rent determined by the HACSB. The lease will specify the initial amount of the rent at the beginning of the initial lease term, and the HACSB will give written notice stating any change in the amount of rent and when the change is effective. Rent is due and payable at the HACSB-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter. If a family's rent changes, the HACSB will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

²⁶ The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation.

7.1.5.1 Late Fees and Nonpayments [24 CFR 966.4(b)(3)]

Any payments made by mail or placed in a drop box are made at the resident's risk and must be received by HACSB on or before the end of business on the due date. Payments received after the 5th calendar day will incur a \$50.00 late charge. If the family fails to pay their rent by the fifth day of the month, and the HACSB has not agreed to accept payment at a later date, a 3 day Notice to Pay or Quit will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.²⁷ Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing.

The resident will incur a \$25.00 charge for the first dishonored check and \$35.00 for any subsequent dishonored check. After receiving any dishonored check, HACSB reserves the right to require all further payments from you to be made by money order, certified check or cashier's check.

If the family requests an informal settlement conference within the required timeframe, the HACSB will not take action for nonpayment of the fee until the conclusion of the process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

The lease provides that late payment fees are not due and collectible until three days after the HACSB gives written Notice to Perform. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action.

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for an informal settlement conference. The HACSB must not take the proposed action until the time for the resident to request an informal settlement conference has expired, or (if a conference was requested within the required timeframe,) the process has been completed.

7.1.5.2 Excess Utility Charges [24 CFR 966.4(b)]

When applicable, families will be charged for excess utility usage according to the HACSB's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions.

²⁷ The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation.

Charges are due and payable 14 calendar days after billing. If the family requests an informal settlement conference within the required timeframe, the HACSB may not take action for nonpayment of the charges until the conclusion of the process. Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction. Excess utility charges are billed by a third party vendor.

7.1.5.3 Maintenance and Damage Charges [24 CFR 966.4(b)(2)]

When applicable, families will be charged for maintenance and/or damages according to the HACSB's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests an informal settlement conference within the required timeframe, the HACSB may not take action for nonpayment of the charges until the conclusion of the process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

7.2 Inspections

HACSB will inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy as well as other additional inspections. This part contains the HACSB's policies governing inspections, notification of unit entry, and inspection results.

7.2.1 Move-In Inspections [24 CFR 966.4(i)]

HACSB and the family must inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. The head of household must attend the initial inspection and sign the inspection form. At HACSB's sole discretion, an adult member may be approved to attend the initial inspection and sign the inspection form. A copy of the initial inspection, signed by the HACSB and the resident, must be provided to the resident and be kept in the resident file.

7.2.2 Move-out Inspections [24 CFR 966.4(i)]

The HACSB will inspect the unit at the time the resident vacates the unit and will allow the resident to participate in the inspection if he or she wishes, unless the resident vacates without notice to the HACSB.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

When applicable, the HACSB will provide the resident with an allocation of deposit statement to be made for maintenance and damage beyond normal wear and tear, within 21 business days of conducting the move-out inspection.

7.2.3 Annual Inspections [24 CFR 5.705]

The HACSB inspects all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

7.2.4 Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame. Supervisory quality control inspections will be conducted in accordance with the HACSB's preventative maintenance plan.

7.2.5 Special Inspections

HACSB staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe safety hazards and/or an emergency exists

7.2.6 Other Inspections

Building exteriors, grounds, common areas and systems will be inspected according to the HACSB's preventative maintenance plan.

7.2.7 Notice and Scheduling of Inspections

7.2.7.1 Non-Emergency Entries [24 CFR 966.4(j)(1)]

The HACSB may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. The HACSB will notify the resident in writing at least 48 hours prior to the regular annual inspection and any non-emergency inspection. Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the HACSB to enter the unit.

7.2.7.2 Emergency Entries [24 CFR 966.4(j)(2)]

The HACSB may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the HACSB will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

7.2.7.3 Scheduling of Inspections

Inspections will be conducted during normal business hours. If a family needs to reschedule an inspection, they must notify the HACSB at least 24 hours prior to the scheduled inspection. The HACSB will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The HACSB may request verification of such cause.

7.2.7.4 Attendance at Inspections [24 CFR 966.4(i)]

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes. If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

7.2.8 Inspection Results [24 CFR 966.4(e)]

The HACSB is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

7.2.8.1 Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the resident must immediately notify the HACSB of the damage, and the HACSB will make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the HACSB will charge the family for the reasonable cost of repairs. The HACSB may also take lease enforcement action against the family.

If the HACSB cannot make repairs within a reasonable time and emergency repairs still remain to be resolved, the HACSB will offer the family standard alternative accommodations. If the HACSB can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, the HACSB will make repairs or otherwise abate the situation within 24 hours. Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of one functioning toilet in the unit
- Inoperable smoke/carbon monoxide detectors

7.2.8.2 Non-Emergency Repairs

The HACSB will correct non-life threatening health and safety defects within 15 business days of the inspection date. If the HACSB is unable to make repairs within that period due to circumstances beyond the HACSB's control (e.g. required parts or services are not

available, weather conditions, etc.) the HACSB will notify the family of an estimated date of completion. The family must allow the HACSB access to the unit to make repairs.

7.2.8.3 Resident Caused Damages

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies above. Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

7.2.8.4 Housekeeping

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the HACSB will provide proper notice of a lease violation.

A reinspection will be conducted to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke/carbon monoxide detector. Only one warning will be given. A second incidence will result in lease termination.

CHAPTER 8

RECERTIFICATIONS

8. Introduction

This chapter defines the Housing Authority's policy for conducting biennial and interim recertifications for participants in the Affordable Housing program. It also explains the interim reporting requirements for families, and the standards for timely reporting.

8.1 Biennial and Triennial Recertifications²⁸ [24 CFR 960.257(a)(1)]

This section describes biennial and triennial recertification policies for the HACSB Affordable Housing program.

8.1.1 Streamlined Lease Assistance Programs

Effective January 1, 2019, or as soon as practicable thereafter, elderly-only fixed-income families in the Streamlined Lease Assistance programs will be recertified on a triennial basis in accordance with the policies outlined in this chapter²⁹. An elderly-only fixed-income family is one that has no members under the age of 57 and has at least 90% of its income from fixed sources.

All other participants in the Streamlined Lease Assistance programs will be recertified on a biennial basis in accordance with the policies outlined in this Chapter.

8.1.2 Transitional Assistance for MTW Families

Effective January 1, 2019, or as soon as practicable thereafter, elderly-only fixed-income families in the Transitional Assistance for MTW Families programs will be recertified on a triennial basis in accordance with the policies outlined in this chapter³⁰. An elderly-only fixed-income family is one that has no members under the age of 57 and has at least 90% of its income from fixed sources.

²⁸ HACSB's MTW Activity 4: Biennial and Triennial Recertifications extended biennial or triennial recertifications to all families participating in Public Housing programs.

²⁹ HACSB's MTW Activity 4: Biennial and Triennial Recertifications allows elderly-only fixed-income families to be recertified every three years.

³⁰ HACSB's MTW Activity 4: Biennial and Triennial Recertifications allows elderly-only fixed-income families to be recertified every three years.

All other participants in the Transitional Assistance for MTW Families program, including flat rent families, will be recertified on a biennial basis in accordance with the policies outlined in this Chapter.

8.1.3 Scheduling Recertifications [24 CFR 960.257(a)(1)]

Generally, HACSB will schedule recertifications to coincide with the family's anniversary date. HACSB will begin the recertification process approximately 120 days in advance of the scheduled effective date. The HACSB may also schedule a recertification for completion prior to the anniversary date for administrative purposes.

Recertifications are generally conducted via mail, but families may be required to participate in an interview if packets are not returned or not completed appropriately. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACSB to request a reasonable accommodation.

Notification of recertifications will be sent by first-class mail and will inform the family of the information and documentation that must be provided. If an interview is required, an advocate, interpreter, or other assistant may assist the family in the interview process. If the family is unable to attend a scheduled interview, the family should contact the HACSB at least 24 hours in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the HACSB will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACSB approval, the family will be in violation of their lease and may be terminated.

8.1.4 Conducting Recertifications [24 CFR 966.4(c)(2)]

Families will be asked to provide all required information in the time frame as described in the recertification notice. The required information will include a HACSB-designated recertification form, the HACSB 9886 Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the family does not provide the required

documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated.

The information provided by the family generally must be verified in accordance with the policies in this ACOP. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified at recertification. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

8.1.5 Change in Unit Size [24 CFR 960.257(a)(4)]

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. HACSB may also use the results of an interim recertification to require the family to move to an appropriate size unit.

8.1.6 Criminal Background Checks [24 CFR 5.903(e)(1)(ii)]

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual recertification process. Information obtained through criminal background checks may be used for lease enforcement and eviction

8.1.7 Compliance with Community Service [24 CFR 960.257(a)(3)]

For families who include nonexempt individuals, HACSB will determine compliance with community service requirements once each 12 months

8.1.8 Effective Dates

This section describes what the effective date will be for changes in rent. If the HACSB chooses to schedule a recertification for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACSB, but will always allow for the 30-day notice period.

8.1.8.1 Rent Increases

In general, an increase in the resident rent that results from a recertification will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance. If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period. If there is a 10% or more increase in the rent, a 60-day notice will be provided.

8.1.8.2 Rent Decreases

In general, a decrease in the resident rent that results from a recertification will take effect on the family's anniversary date.

8.1.8.3 Resident Caused Delays

If the family causes a delay in processing the recertification, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the recertification processing.

Delays in recertification processing are considered to be caused by the family if the family fails to provide information requested by the HACSB by the date specified, and this delay prevents the HACSB from completing the recertification as scheduled.

8.2 Interim Recertifications [24 CFR 960.257 and 24 CFR 966.4]

Participants are required to report certain changes between recertifications. The required changes vary based on the program type of the participant.

8.2.1 Changes in Family Composition

Participants must report all changes in household composition and income within 10 business days of the change, including changes due to birth, adoption, marriage or court-awarded custody. All changes that may affect the family's eligible bedroom size must be reported within 10 business days of the change occurring, including a household member(s) no longer needing a live in aide or approved additional bedroom due to reasonable accommodation. All additions to the household must meet the eligibility criteria described in Eligibility chapter of this ACOP.

If any new family member is added, the income of the new family member will be added to the household. The Housing Authority will conduct an interim recertification to determine such additional income and will make the appropriate adjustments in the rent.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular certification after moving into the unit. An interim recertification does not affect the next date of the regularly scheduled recertification.

8.2.2 Changes in Income

Families must report all changes in income in accordance with the policies outlined in this section.

8.2.2.1 Streamlined Lease Assistance Programs

The Housing Authority will not process any interim recertifications due to changes in income for participants in the Streamlined Lease Assistance programs.

8.2.2.2 Transitional Assistance for MTW Families

The family must report any changes in income. However, if the change in income is less than \$300 per month the Housing Authority will not process the interim recertification although the documentation will be notated in the participant's file.

If changes are not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered a violation of family obligations and assistance may be terminated.

The Housing Authority may schedule a meeting with each zero income family every 90 days.

8.2.2.3 Transitional Assistance for MTW Families and Interim Recertifications After November 1, 2014

If a Transitional Assistance for MTW families household reports an interim change in income after November 1, 2014 and they are more than 6 months from their regular recertification date, the Housing Authority will do a side-by-side calculation to compare the family rent share under the Transitional Assistance for MTW families program and the family rent share under the program they will be transitioning to at their next regular recertification; either Streamlined Fixed or Streamlined Tiered Lease Assistance, depending on household eligibility. If the side-by-side calculation determines that the family may benefit from transitioning to the Streamlined Lease Assistance program sooner they will be given the opportunity to do so and will be required to complete a Program Transfer Request form once they have attended a Streamlined Lease

Assistance briefing and been informed of their rights and responsibilities under the Streamlined Lease Assistance program. At this time their recertification date will be reset and a full recertification will be done in order to complete the program transfer.

8.2.3 Housing Authority Reviews

The Housing Authority, at its discretion, can schedule reviews in between regularly scheduled reviews to determine if an interim recertification is required. If the Housing Authority makes a calculation error at admission to the program or at recertification, an interim recertification will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

8.2.4 Effective Dates

This section describes what the effective date will be for changes in rent. If the HACSB chooses to schedule a recertification for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACSB, but will always allow for the 30-day notice period.

8.2.4.1 Rent Increases

In general, an increase in the resident rent that results from a recertification will take effect following 30 days in advance to the family. If there is a 10% or more increase in the rent, a 60-day notice will be provided.

8.2.4.2 Rent Decreases

In general, a decrease in the resident rent that results from a recertification will take effect on the first of the month after the change has been verified.

8.2.4.3 Resident Caused Delays

If the family causes a delay in processing the recertification, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the recertification processing.

Delays in recertification processing are considered to be caused by the family if the family fails to provide information requested by the HACSB by the date specified, and this delay prevents the HACSB from completing the recertification as scheduled.

8.3 Changes that Result in Program Redetermination³¹

If at a regularly scheduled recertification or interim recertification changes to the family result in qualification for a different Housing Authority program, the change will be effective at the next regularly scheduled recertification date.

8.3.1 Streamlined Fixed Lease Assistance Program

If the head of household, spouse or co-head is no longer elderly or disabled after executing a lease for the Streamlined Fixed Lease Assistance program, the family will be transferred to the Streamlined Tiered Lease Assistance program.

8.3.2 Streamlined Tiered Lease Assistance Program

If the head of household, spouse or co-head becomes disabled after executing a lease for the Streamlined Tiered Lease Assistance program, the family will be transferred to the Streamlined Fixed Lease Assistance program.

8.3.3 Transitional Assistance for MTW Families

Families who are participants in Transitional Assistance for MTW Families will be transferred to the program for which they qualify at their first regularly scheduled recertification on or after February 1, 2015. If the head of household, spouse or co-head is elderly or disabled, the family will be transferred to the Streamlined Fixed Lease Assistance program. If the head of household, spouse or co-head is not elderly or disabled, the family will be transferred to the Streamlined Tiered Lease Assistance program.

8.4 Over-income Families³²

If a family's income, at any time, exceeds 80% of the area median income, the family will be given a six month transition period. After the six month transition period, the family will be issued a lease termination notice and will be required to move. If the family fails to move within the required time frame, HACSB will begin eviction proceedings. This policy does not apply to elderly and/or disabled households and households participating in the HACSB Homeownership Program.

³¹ The FY 2012 and FY 2013 MTW Plans created two distinct programs: Five Year Lease Assistance and Streamlined Lease Assistance, respectively. These programs each have particular qualifications for participation as documented in this Chapter.

³² The FY 2014 MTW Annual Plan included Activity 24: Transition for Over-Income Public Housing/Housing Choice Voucher families.

8.4.1 Hardship Exemption for Over-Income Families

If a family in the six (6) month transition period reports a loss of income that results in the family's income falling below the 80% area median income for the family size, the family may qualify for a hardship exemption. To be eligible for a hardship exemption, the family's income must have decreased due to a no fault loss of income or the death of a household member with income. If an exemption is granted, the family will be removed from the six (6) month transition period.

If the family's income increases to exceed 80% of the area median income for the family size after a hardship exemption is granted, the family will be given another six (6) month transition period. The transition period will not be reduced or prorated based upon the duration of any previous transition period(s).

This hardship exemption shall apply to any family in the six (6) month transition period, regardless of assistance type (i.e.: Streamlined Fixed or Tiered Lease Assistance, Transitional Assistance for MTW Families, etc.)

During the COVID-19 emergency, over-income SLA, MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2).

CHAPTER 9

ASSISTANCE ANIMALS AND PETS

9. Introduction

This chapter explains the HACSB's policies on assistance animals and pets. The rules adopted are reasonably related to the legitimate interest of the HACSB to provide a decent, safe and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of the HACSB.

9.1 Assistance Animals

This section discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that assist, support, or provide service to a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets. As such, they are not subject to the HACSB's pet policies described later in this Chapter. An assistance animal does not have formal training although some animals that assist persons with disabilities are professionally trained.

9.1.1 Approval of Assistance Animals [24 CFR 5.303(b)(3), 960.705(b)(3) and PH Occ GB, p. 178 and 179]

A person with a disability is not automatically entitled to have an assistance animal but may request one through the reasonable accommodation process which requires that there is a relationship between the person's disability and his or her need for the animal. For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the HACSB approve a reasonable accommodation.

HACSB will only deny approval of an assistance animal if:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

9.1.2 Care and Handling [24 CFR 5.303; 24 CFR 960.705]

HUD regulations do not affect any authority the HACSB has to regulate assistance animals under federal, state, and local law. Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the community, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the HACSB will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the HACSB determines that no such accommodation can be made, the HACSB may withdraw the approval of a particular assistance animal.

9.2 Pet Policies

The purpose of the HACSB pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets.

9.2.1 Management Approval of Pets [24 CFR 960.707(b)(5)]

9.2.1.1 Pet Registration

Pets must be registered with the HACSB before they are brought onto the premises. Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. The owner must provide HACSB a picture of the pet. This registration must be renewed annually. Pets will not be approved to reside in a unit until completion of the registration requirements.

The HACSB will refuse to register a pet if:

- The pet is not a common household pet as defined later in this chapter
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The HACSB reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the HACSB refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the HACSB's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the HACSB's informal settlement conference process.

9.2.1.2 Pet Agreement

Residents who have been approved to have a pet must enter into a pet agreement, which has been incorporated into the lease, with the HACSB, or the approval of the pet will be withdrawn. The pet agreement is the resident's certification that he or she has received a copy of the HACSB's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the HACSB's pet policy and applicable house rules may result in the withdrawal of HACSB approval of the pet or termination of tenancy.

9.2.1.3 Additional Deposit [24 CFR 5.318(d)(1)]

Pet owners are required to pay an additional deposit apart from any other required deposits. The amount of the deposit is \$300.00 per pet. The deposit must be paid in full before the pet is brought on the premises or the HACSB, at its sole discretion, may allow for the incremental payment of the deposit.

9.2.1.3.1 Refund of Deposit [24 CFR 5.318(d)(1)]

The HACSB will refund the additional deposit to the resident, less the costs of any damages to the dwelling unit, within 21 days of move-out. The resident will be billed for any amount that exceeds the additional deposit.

The HACSB will provide the resident with a written list of any charges against the additional deposit within 21 business days of the move-out inspection. If the resident disagrees with the amount charged to the additional deposit, the HACSB will provide an opportunity to discuss the charges.

If the pet related charges do not exceed the additional deposit, and the family owes HACSB other charges, HACSB may use the additional deposit towards those other outstanding charges.

9.2.1.3.2 Pet Related Damages During Occupancy

All reasonable expenses incurred by the HACSB as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs. Additional deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the resident.

9.2.2 Standards for Pets [24 CFR 5.318; 960.707(b)]

9.2.2.1 Definition of “Common Household Pet” [24 CFR 5.306(2)]

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes. HACSB allows the following types of pets:

Residents are not permitted to have more than one dog and cat. No pet may be in excess of 20 pounds and height no greater than 10 inches at the shoulder. The maximum number of individual type of a common household pet is set forth below:

- Dogs
 - Maximum number: 1
 - Must be housebroken
 - Must be spayed or neutered
 - Must have all required inoculations
 - Must be licensed as specified now or in the future by State law and local ordinance
 - Any litter resulting from the pet must be removed from the unit as soon as the puppies are weaned or are eight weeks of age.
- Cats
 - Maximum number: 1
 - Must be a household cat
 - Must be spayed or neutered
 - Must have all required inoculations
 - Must be trained to use a litter box or other waste receptacle
 - Must be licensed as specified now or in the future by State law or local ordinance
 - Any litter resulting from the pet must be removed from the unit as soon as the kittens are weaned or are eight weeks of age.
- Birds
 - Maximum number: 3
 - Must be enclosed in a cage at all times
- Fish
 - Maximum aquarium size: 5 gallons
 - Must be maintained on an approved stand

The following are NOT “common household pets”:

- Domesticated dogs that exceed thirty pounds
- Vicious or intimidating dogs.
 - Under California law (Food and Agriculture Code Sec. 31603), a “vicious” dog is defined as, but not limited to: (a) Any dog seized under Section 599aa of the California Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code. (b) Any dog which, when provoked, in an aggressive manner, inflicts severe injury on or kills a human being. (c) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of Section 31641, 34642, or 31643. (d) Any dog breeds that have been determined to be “potentially dangerous” or “vicious” under California law or local animal control ordinance.
- Wild, feral, or any other animals that are not amenable to routine human handling
- Any poisonous animals of any kind
- Fish in aquariums exceeding ten gallons in capacity
- Non-human primates
- Animals whose climatological needs cannot be met in the unaltered environment of the individual dwelling unit
- Pot-bellied pigs
- Ferrets or other animals whose natural protective mechanisms pose a risk of serious bites and/or lacerations to small children
- Hedgehogs or other animals whose protective instincts and natural body armor produce a risk of serious puncture injuries to children
- Chicks, turtles, or other animals that pose a significant risk of salmonella infection to those who handle them
- Pigeons, doves, mynahs, psittacines, and birds of other species that are hosts to the organisms that cause psittacosis in humans
- Snakes or other kinds of reptiles
- Any other animal that, due to its size, nature, or disposition, presents a risk to public health or safety or cannot be properly cared for due to its physical needs

9.2.2.2 Number of Pets

Residents may own a maximum of 2 pets. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

9.2.2.3 Other Requirements

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

9.2.3 Pet Rules [24 CFR 5.315; 24 CFR 960.707(a)]

Pet owners must maintain pets responsibly, in accordance with HACSB policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations.

9.2.3.1 Pet Area Restrictions

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times. Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on community premises outside of the areas designated for such purposes.

9.2.3.2 Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

HACSB may designate an entire community³³, buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning residents.

HACSB may direct initial resident moves as may be necessary to establish pet and no-pet areas. The HACSB may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The HACSB may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing residents.

9.2.3.3 Cleanliness

The pet owner shall be responsible for the removal of waste from the community by placing it in a sealed plastic bag and disposing of it in an appropriate container. The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

9.2.3.4 Alteration to Unit

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

9.2.3.5 Noise

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or

³³ The FY 2012 Moving to Work Annual Plan updated Activity 18: Property Management Innovation to allow for pet-free communities.

premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

9.2.3.6 Pet Care

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet. Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HACSB property. No animals may be tethered or chained inside or outside the dwelling unit at any time.

9.2.3.7 Responsible Parties

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet. A resident who cares for another resident's pet must notify the HACSB and sign a statement that they agree to abide by all of the pet rules.

9.2.3.8 Pets Temporarily on the Premises

Pets that are not owned by a resident are not allowed on the premises. "Pet-sitting" is not allowed on the premises. Residents are prohibited from feeding or harboring stray animals. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the HACSB.

9.2.3.9 Pet Rule Violations

All complaints and/or observations of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement. If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served. The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

9.2.3.10 Notice for Pet Removal

If the pet owner and the HACSB are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the HACSB, the HACSB may serve notice to remove the pet. The notice will contain:

- A brief statement of the factual basis for the HACSB's determination of the pet rule that has been violated
- The requirement that the resident/pet owner must remove the pet within 10 calendar days of the notice
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

9.2.3.11 Pet Removal

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner. If the responsible party is unwilling or unable to care for the pet, or if the HACSB after reasonable efforts cannot contact the responsible party, the HACSB may contact the appropriate state or local agency and request the removal of the pet.

9.2.3.12 Emergencies

The HACSB will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals. If it is necessary for the HACSB to place the pet in a shelter facility, the cost will be the responsibility of the pet owner. If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

9.2.4 Termination of Tenancy

The HACSB may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

CHAPTER 10

COMMUNITY SERVICE REQUIREMENT

10. Introduction

This chapter explains HACSB's community service program for all nonexempt adults living in affordable housing.

10.1 Community Service Requirement [24 CFR 960.600 – 609]

All non-exempt adults residing in HACSB's affordable housing communities are required to meet the community service requirement. 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.

10.2 Definitions

10.2.1 Exempt Individual [24 CFR 960.601(b), Notice PIH 2009-48]

An exempt individual is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities
 - The HACSB will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HACSB is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HACSB is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

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10.2.2 Activities that Meet Community Service Requirements [24 CFR 960.603(a)]

Each adult resident of the HACSB, who is not exempt, must

- 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).

An individual may not skip a month and then double up the following month, unless special circumstances warrant it. The HACSB will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the HACSB in writing within 5 business days of the circumstances becoming known. The HACSB will review the request and notify the individual, in writing, of its determination within 10 business days. The HACSB may require those individuals to provide documentation to support their claim.

10.2.2.1 Community Service

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

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving HACSB residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL),

organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs

- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- Care for the children of other residents so parent may volunteer

The HACSB will accept community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work as eligible community service activities.

10.2.2.2 Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2009-48]

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

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling

- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

10.2.2.3 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
- Provision of child care services to an individual who is participating in a community service program

10.3 Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2009-48]

The HACSB will provide the family with a copy of the Community Service Policy at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

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

10.4 Determination of Exemption Status and Compliance [24 CFR 960.605(c)(3)]

The HACSB will review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term.

10.4.1 Annual Determination

An exempt individual is excused from the community service requirement. At least 60 days prior to lease renewal, the HACSB will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the HACSB has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination. Upon completion of the verification process, the HACSB will notify the family of its determination.

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

If the family fails to submit the required documentation within the required timeframe, or HACSB approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued.

10.4.1.1 Change in Status Between Annual Determinations

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to the HACSB within 10 business days. Within 10 business days of a family reporting such a change, or the HACSB determining such a change is necessary, the HACSB will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training

opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed. The effective date of the community service requirement will be the first of the month following 30 day notice.

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the HACSB within 10 business days. Any claim of exemption will be verified. Within 10 business days of a family reporting such a change, or the HACSB determining such a change is necessary, the HACSB will provide the family written notice that the family member is no longer subject to the community service requirement, if the HACSB is able to verify the exemption. The exemption will be effective immediately.

10.5 Documentation and Verification

10.5.1 Documentation and Verification of Exemption Status

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

The HACSB will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements outlined in this ACOP. The HACSB makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the HACSB's determination, s/he can dispute the decision through the HACSB's informal settlement conference procedures.

10.5.2 Documentation and Verification of Compliance

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

If the HACSB has reasonable cause to believe that the certification provided by the family is false or fraudulent, the HACSB has the right to require third-party verification.

10.6 Noncompliance

10.6.1 Initial Noncompliance [24 CFR 960.603(b), 24 CFR 960.607(c), and Notice PIH 2009-48]

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term

If the resident or another family member has violated the community service requirement, the HACSB may not renew the lease upon expiration of the twelve-month term of the lease, unless the resident and any other noncompliant family member enter into a written agreement with the HACSB. Under this agreement the resident or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit.

10.6.1.1 Notice of Initial Noncompliance [24 CFR 960.607(b)]

The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term. The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request an informal settlement conference.

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

If the family does not request a conference, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the HACSB will terminate tenancy.

10.6.1.2 Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the HACSB must terminate tenancy of the entire family, according to the HACSB's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request an informal settlement conference.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the HACSB 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 an informal settlement conference, 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.

10.6.1.3 Enforcement Documentation [Notice PIH 2009-48]

HACSB will initiate due process against households failing to comply with lease requirements including the community service and self-sufficiency requirement. When initiating due process, the HACSB must take the following procedural safeguards:

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

10.7 Implementation of Community Service

The HACSB's Community Initiatives Department connects residents and participants to services and activities that encourage self-sufficiency and supports a mission of enhancing the quality life in our communities. Information on opportunities can be found at: <http://www.hacsb.com/residents/resident-services>

CHAPTER 11

TRANSFER POLICY

11. Introduction

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

11.1 Emergency Transfers [24 CFR 966.4(h) and PH Occ GB, p. 147]

Certain transfers are considered emergency transfers. The emergency transfer differs from a typical transfer in that it requires immediate action by the HACSB.

In the case of a genuine emergency, it may be unlikely that the HACSB will have the time or resources to immediately transfer a resident. Due to the immediate need to vacate the unit, placing the resident on a transfer waiting list would not be appropriate.

Under such circumstances, if an appropriate unit is not immediately available, the HACSB will 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 reached.

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the HACSB will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time.

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 are considered reasons for an emergency transfer. 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.

11.1.1 Emergency Transfer Procedures

If the transfer is necessary because of emergency maintenance circumstances described above, and an appropriate alternate unit is not immediately available, the HACSB will coordinate with the family to ensure temporary lodging at a local hotel or similar location

is secured and is available at a comparable market rate. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the HACSB will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers are mandatory for the resident.

11.1.2 Costs of Emergency Transfer

The HACSB will bear the reasonable costs of temporarily accommodating the resident and of long term transfers, if any, due to emergency conditions. The reasonable cost of transfers includes the cost of packing, moving, and unloading. The HACSB will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACSB will collect information from companies in the community that provide these services. The HACSB will reimburse the family for eligible out-of-pocket moving expenses up to the HACSB's established moving allowance.

11.2 HACSB Required Transfers [24 CFR 966.4(e)(8)(i)]

The types of transfers that may be required by the HACSB, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed earlier in this chapter. A transfer that is required by the HACSB is an adverse action, and is subject to the notice requirements for adverse actions. Transfers required by the HACSB are mandatory for the resident.

11.2.1 Transfers to Make a Unit Accessible [24 CFR 8.27(b)]

When a family is initially given an accessible unit, but does not require the accessible features, the HACSB may require the family to agree to move to a non-accessible unit when it becomes available. When a non-accessible unit becomes available, the HACSB will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that does not result in overcrowding and is not accessible. The HACSB 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.

11.2.2 Occupancy Standards Transfers [24 CFR 960.257(a)(4)]

The HACSB may require a resident to move when a recertification indicates that there has been a change in family composition, and the family is either overcrowded or over-

housed according to HACSB policy. On some occasions, the HACSB may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The affordable housing lease will include the resident's agreement to transfer to an appropriately sized unit based on family composition.

The HACSB will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the policies in Chapter 4
- Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the HACSB's occupancy standards according to the policies in Chapter 4

The HACSB may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the HACSB's occupancy standards, when the HACSB determines there is a need for the transfer. The HACSB may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the HACSB that a transfer is necessary and that the family has been placed on the transfer list. Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Chapter 5 will only be required to transfer if it is necessary to comply with the approved exception.

11.2.3 HACSB Homeownership Transfers

Residents residing in HACSB HUD approved Section 32 Homeownership Program units may be required to relocate to a comparable unit, at HACSB's expense, within ninety (90) days of notice, in accordance with the approved relocation plan.

11.2.4 Demolition, Disposition, Revitalizations, or Rehabilitation Transfers [PH Occ GB, page 148]

The HACSB will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being

disposed of or demolished. The HACSB's relocation plan may or may not require transferring affected families to other available affordable housing units.

If the relocation plan calls for transferring affordable housing families to other affordable housing units, affected families will be placed on the transfer list. In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

11.2.5 Adverse Action [24 CFR 966.4(e)(8)(i)]

A HACSB 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 an informal settlement conference within the required timeframe, the HACSB may not take action on the transfer until the conclusion of the process.

11.2.6 Cost of HACSB Transfer

The HACSB will bear the reasonable costs of transfers that the HACSB requires, except that residents will be required to bear the cost of occupancy standards transfers. The reasonable costs of transfers include the cost of packing, moving, and unloading.

The HACSB will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACSB will collect information from companies in the community that provide these services. The HACSB will reimburse the family for eligible out-of-pocket moving expenses up to the HACSB's established moving allowance.

11.3 Resident Requested Transfers

This section describes HACSB policies related to resident requested transfers.

11.3.1 Types of Resident Requested Transfers

The types of requests for transfers that the HACSB will consider are limited to requests for the following types of transfers:

- Violence Against Women Act victims
- Witness to a Crime (witness to a crime with documentation from law enforcement and there is a verifiable threat to the health or safety to the resident)

- Reasonable Accommodation

No other transfer requests will be considered by the HACSB.

11.3.2 Eligibility for Transfers

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference.

11.3.3 Security Deposits

When a family transfers from one unit to another, the HACSB will not transfer their security deposit to the new unit. The resident will be required to pay the security deposit for the new unit. An exception may be made for reasonable accommodation.

11.3.4 Cost of Resident Requested Transfer [Notice PIH 2006-13]

The resident will bear all of the costs of transfer s/he requests. However, the HACSB will bear the transfer costs when the transfer is done as a reasonable accommodation.

11.3.5 Handling of Requests

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer. In case of a reasonable accommodation transfer, the HACSB will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HACSB will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The HACSB will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate documentation Form HUD 5382.

The HACSB will respond within twenty (20) business days of the submission of the family's request. If the HACSB denies the request for transfer, the family will be informed of its informal settlement conference rights.

11.4 Transfer Processing

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

11.4.1 Transfer List

The HACSB will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

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

Transfers will be processed in the following order:

- Emergency transfers (hazardous maintenance conditions)
- High-priority transfers (VAWA, reasonable accommodation and witness to a crime)
- Transfers to make accessible units available
- Demolition, renovation, etc.
- Occupancy standards
- Other HACSB-required transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date. HACSB shall apply its Emergency Transfer Plan form HUD 5381 for VAWA victims as required by HUD and provide the Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Form HUD 5383. With the approval of the Director of Housing Communities, the HACSB 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 the HACSB to meet the demolition or renovation schedule. Transfers will take precedence over waiting list admissions.

11.4.2 Transfer Offer Policy

Residents will receive one offer of a transfer. When the transfer is required by the HACSB, 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.

11.4.3 Good Cause for Unit Refusal

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

- The family demonstrates to the HACSB's satisfaction that accepting the unit offer will require an adult household member to quit a job. The family must provide verification of the job location.
- The family demonstrates to the HACSB's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. These good cause refusals will only be considered when the family provides specific and compelling written documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member. The HACSB will require the verification to be in writing from the health professional.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

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

11.4.4 Deconcentration

If subject to deconcentration requirements, the HACSB will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the HACSB'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.

CHAPTER 12

LEASE TERMINATIONS AND INFORMAL SETTLEMENT CONFERENCES

12. Introduction

This chapter presents the policies that govern both the family's and the Housing Authority's termination of the lease as well as the informal settlement conference policies. All residents shall be provided with a Notice of Occupancy Rights under VAWA form HUD 5380 as required by HUD.

12.1 Termination by Resident [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

If a family desires to move and terminate their tenancy with the HACSB, they must give at least 30 calendar days advance written notice to the HACSB of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control the HACSB, at its discretion, may waive the 30 day requirement. The notice of lease termination must be signed by the head of household, spouse, or co-head.

If the Housing Authority receives a notice of intent to vacate due to Domestic Violence from a tenant, a fourteen (14) day notice will be accepted under California state law.

12.2 Mandatory Termination Reasons

HUD requires the HACSB to terminate the lease in certain circumstances. In other circumstances HUD requires the HACSB to establish provisions for lease termination, but it is still a HACSB option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, the HACSB has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the HACSB to terminate the lease.

12.2.1 Failure to Provide Consent [24 CFR 960.259(a) and (b)]

The HACSB must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.

12.2.2 Failure to Document Citizenship [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The HACSB must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the HACSB, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

12.2.3 Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2012-10]

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

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

12.2.4 Failure to Accept HACSB's Offer of a Lease Revision [24 CFR 966.4(l)(2)(ii)(E)]

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

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

12.2.5 Methamphetamine Conviction [24 CFR 966.4(l)(5)(i)(A)]

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

12.2.6 Noncompliance with Community Service Requirement [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The HACSB 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.

12.2.7 Death of Sole Family Member [Notice PIH 2012-10]

The HACSB must immediately terminate program assistance for deceased single member households.

12.3 Additional Termination Reasons

In addition to requiring HACSB to terminate the lease under the circumstances described above, HUD requires the HACSB 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 HACSB to terminate for such violations in all cases. The HACSB has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the HACSB may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes HACSB 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. In the development of the terms of the lease, the HACSB must consider the limitations imposed by state and local landlord-resident law, as well as HUD regulations and federal statutes. The HACSB may consider alternatives to termination and must establish policies describing the criteria the HACSB will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the HACSB must take when terminating a family's lease.

12.3.1 Mandatory Lease Provisions Regarding Additional Termination Reasons

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require HACSB to terminate for such violations in all cases, and HACSB may consider mitigating circumstances when making its termination decision. The following definitions will be used for this and other parts of this chapter:

- Covered person means a resident, any member of the resident's household, a guest, or another person under the resident's control.
- Dating violence is defined in Chapter 13
- Domestic violence is defined in Chapter 13
- 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 resident or other member of the household who has express or implied authority to so consent on behalf of the resident.
- Household means the family and HACSB-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].
- Immediate family member is defined in Chapter 13
- Affiliated individual is defined in chapter 13

- Other person under the resident'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 resident or other member of the household who has express or implied authority to so consent on behalf of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the resident's control.
- Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- Stalking is defined in Chapter 13
- 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.

12.3.2 Drug Crime on or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

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

The HACSB will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the resident's control. The HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, the HACSB will consider alternatives as described later in this chapter. Per PIH Notice 2015-19, arrest records will not be utilized as the sole reason for termination, the decision will be based on a preponderance of the evidence and any other mitigating circumstances. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

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

The lease must provide that a HACSB may evict a family when the HACSB determines that a household member is illegally using a drug or that a pattern of illegal use of a drug

interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACSB will terminate the lease when the HACSB determines that a household member is illegally using a drug or the HACSB determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

The HACSB 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, witness statements and other forms of evidence considered appropriate to the decision making process. In making its decision to terminate the lease, the HACSB will consider alternatives described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

12.3.4 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 HACSB management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

The HACSB will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HACSB management staff residing on the premises) or by persons residing in the immediate vicinity of the premises. Immediate vicinity means within a three-block radius of the premises.

The HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity, witness statements and other forms of evidence considered appropriate to the decision making process. In making its decision to terminate the lease, the HACSB will consider alternatives described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

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

HACSB has established standards that allow termination of tenancy if the HACSB determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACSB will terminate the lease if the HACSB 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. The HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol, witness statements and other forms of evidence considered appropriate to the decision making process..

In making its decision to terminate the lease, the HACSB will consider alternatives as described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

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

HACSB has established standards that allow termination of tenancy if the HACSB determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The HACSB will terminate the lease if the HACSB determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

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

In making its decision to terminate the lease, the HACSB will consider alternatives as described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

12.3.7 Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain resident obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

The HACSB will terminate the lease for the following violations of resident obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent;
- Repeated late payment of rent or other charges. Repeated late payment shall be defined as failure to pay the amount of rent or other charges due by the fifth (5th) day of the month. Three (3) such late payments within a six (6) month period, or four (4) in a twelve (12) month period shall constitute a repeated late payment.
- Failure to pay utility bills when resident is responsible for paying such bills directly to the supplier of utilities;
- Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit, common areas, grounds, or parking areas of any community;
- Weapons or illegal drugs seized in an Authority unit by a law enforcement officer;
- Any fire on Authority premises caused by the resident, household members or guests' actions or neglect;
- 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 resident and the resident's household as identified in the lease, and not to use or permit its use for any other purpose

- To abide by necessary and reasonable regulations promulgated by the HACSB for the benefit and well-being of the housing community and the residents which shall be posted in the community office and incorporated by reference in the lease
- To comply with all obligations imposed upon residents 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 resident for the resident'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 resident, a member of the household or a guest
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the HACSB will consider alternatives as described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

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

HUD regulations state that the HACSB may terminate tenancy for other good cause. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits HACSBs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

The HACSB will terminate the lease for the following reasons:

- Fugitive Felon or Parole Violator. If a resident is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.
- Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
- Discovery after admission of facts that made the resident ineligible
- Discovery of material false statements or fraud by the resident in connection with an application for assistance or with reexamination of income
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the HACSB to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size
- Failure to disclose any law enforcement actions related to criminal activity within 10 calendar days
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the HACSB that such a dwelling unit is available
- Failure to permit access to the unit by the HACSB after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists
- Failure to promptly inform the HACSB of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of the HACSB pet policy
- If the family has breached the terms of a repayment agreement entered into with the HACSB
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

- If a household member has engaged in or threatened violent or abusive behavior toward HACSB personnel or contractors.
- Abusive or violent behavior towards HACSB personnel or contractors includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- In the situation where the head of household dies and eligible family members are determined to be eligible for continued subsidy, HACSB will require the “new” family to participate in the Housing Services program’s Five Year Lease Assistance program, as long as the head, spouse or co-head is not elderly or disabled. At the time HACSB is notified of the head of household’s death, and has determined the remaining members eligible for the residual unit, HACSB will also issue the family a voucher to move. If the “new” family has a head, spouse or co-head who is elderly or disabled the family will participate in the affordable housing program’s Streamlined Fixed Lease Assistance Program.³⁴

The HACSB may terminate tenancy for criminal activity by household member in accordance with this section if HACSB reasonably determines; pursuant to HUD guidance in PIH 2015-19 that a household member has committed the criminal activity, regardless of whether a household member has been charged, arrested or convicted for such activity. The fact that a tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant/ tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the household member actually engaged in disqualifying criminal activity. As part of its investigation, the HACSB may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACSB may also consider any statements made by witnesses or the household member 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; and any other evidence relevant to determining whether or not the tenant engaged in disqualifying activity. The HACSB may

³⁴ The FY 2014 Moving to Work Annual Plan updated Activity 20: Five Year Lease Assistance program to add this provision regarding residual assistance.

terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

In making its decision to terminate the lease, the HACSB will consider alternatives as described later in this chapter. Upon consideration of such alternatives and factors, the HACSB may, on a case-by-case basis, choose not to terminate the lease.

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

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

The family must promptly notify the HACSB when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 14 consecutive calendar days. Generally, the HACSB will require at least 5 calendar days before the start of the extended absence. The HACSB may waive the notification requirement on a case-by-case basis.

If a family is absent from the public housing unit for more than 30 consecutive days, and the family does not adequately verify that they are living in the unit, the HACSB will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, the HACSB will follow state and local landlord-resident law pertaining to abandonment before taking possession of the unit. If necessary, the HACSB will secure the unit immediately to prevent vandalism and other criminal activity.

12.3.10 Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

If the family has an annual income exceeding 80% of the area median income the family will be given a six month transition period and then will be terminated or evicted from the program.³⁵

³⁵ The FY 2014 Moving to Work Annual Plan included Activity 24: Transition for Over-Income Public Housing/Housing Choice Voucher families.

12.4 Alternatives to Termination of Tenancy

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

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

The HACSB will consider requiring the resident 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 verifiable evidence of the former household member's current address upon HACSB request.

12.4.2 Repayment of Family Debts

If a family owes amounts to the HACSB, as a condition of continued occupancy, the HACSB will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HACSB of the amount owed. See Chapter 13 for policies on repayment agreements.

12.5 Criteria for Deciding to Terminate Tenancy

When HACSB has grounds to terminate a tenancy it is not required to do so, except as determined mandatory by HUD, and may consider all of the circumstances relevant to a particular case before making a decision.

12.5.1 Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the HACSB 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, charged or convicted, and without satisfying the standard of proof used for a criminal conviction.

The HACSB 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.

Per PIH Notice 2015-19, arrest records will not be utilized as the sole reason for termination, the decision will be based on a preponderance of the evidence and any other mitigating circumstances.

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

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the HACSB may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease. Such relevant circumstances can also be considered when terminating the lease for any other reason.

The HACSB may consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, 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 the HACSB's failure to terminate the tenancy
- The effect of the HACSB's decision on the integrity of the affordable housing program
- The demand for housing by eligible families who will adhere to lease responsibilities

- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

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

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

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

For this purpose the HACSB will require the resident to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

12.5.4 Reasonable Accommodation [24 CFR 966.7]

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

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

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

12.6 Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking

This section addresses the protections against termination of tenancy that the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and HACSB policies pertaining to notification, documentation, and confidentiality, see Chapter 13.

12.6.1 Protections Against Termination [24 CFR 5.2005(c)]

VAWA provides that “criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a resident’s household or any guest or other person under the resident’s control, shall not be cause for termination of tenancy of, occupancy rights of, or assistance to the victim, if the resident or an affiliated individual of the resident is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking (emphasis added)” [24 CFR 5.2005(c)(2)].

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 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)].

12.6.2 Limits on VAWA Protections [24 CFR 5.2005(d) and (e)]

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

VAWA does not limit HACSB’s otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the HACSB does not subject the victim to a more demanding standard than the standard to which it holds other residents.

VAWA does not limit HACSB’s authority to terminate the tenancy of any public housing resident if the HACSB can demonstrate an actual and imminent threat to other

residents or those employed at or providing service to the property if that resident's tenancy is not terminated.

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)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize HACSB to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

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

- Whether the threat is toward an employee or resident 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 residents or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the resident wishes to contest the HACSB's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance conference or in a court proceeding.

12.6.3 Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the HACSB will request that the individual provide documentation supporting the claim in accordance with the policies in Chapter 13.

The HACSB reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the HACSB will document the waiver in the individual's file.

12.6.4 Terminating or Evicting a Perpetrator of Domestic Violence [24 CFR 5.2009(a)]. [24 CFR 966.4(e)(9)].

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the HACSB the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any resident or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a resident or lawful occupant" [24 CFR 5.2009(a)].

Moreover, HUD regulations impose on the HACSB the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, sexual assault, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the HACSB's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the HACSB chooses to exercise its authority to bifurcate a lease, it will 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 the HACSB will follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

The HACSB will bifurcate a family's lease and terminate the tenancy of a family member if the HACSB determines that the family member has committed criminal acts of physical

violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the HACSB will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the HACSB by the victim in accordance with this section and Chapter 13

The HACSB will also consider the factors described above. Upon such consideration, the HACSB may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the HACSB does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the HACSB will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the HACSB may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

12.7 Notification Requirements, Eviction Procedures and Record Keeping

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.

12.7.1 Conducting Criminal Records Checks [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

The HACSB will conduct criminal records checks when it has come to the attention of the HACSB, either from local law enforcement or by other means, that an individual has engaged in criminal activity. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records. The HACSB will not pass along to the resident the costs of a criminal records check.

12.7.2 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 all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the HACSB will notify the household in writing of the proposed adverse action and will provide the subject of the record and the resident 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 the opportunity to dispute the accuracy and relevance of the information. If the family does not contact the HACSB to dispute the information within the HACSB established time frame, the HACSB will proceed with the termination action. Should the resident not exercise their right to dispute prior to any adverse action, the resident still has the right to dispute in the grievance hearing or court trial.

12.7.3 Lease Termination Notice [24 CFR 966.4(l)(3)]

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 HACSB documents directly relevant to the termination or eviction. If the HACSB does not make the documents available for examination upon request by the resident, the HACSB may not proceed with the eviction [24 CFR 996.4(m)].

When the HACSB 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 the HACSB's grievance procedure. In these cases, the tenancy shall not terminate until the time for the resident to request a grievance hearing has expired and the grievance procedure has been completed.

When the HACSB 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 resident is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the HACSB for eviction of the resident, 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 the HACSB, or for a drug-related criminal activity on or off the premises.

The HACSB will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

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

The HACSB must give written notice of lease termination of:

- 3 calendar days in the case of failure to pay rent³⁶
- 3 calendar days when the health or safety of other residents or Authority employees is threatened;
- 3 calendar days for violation criminal or drug-related activity; and
- Thirty (30) days for any other lease violations during the first year of tenancy and sixty days (60) after the first year of tenancy.

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

When the HACSB finds that a family is in noncompliance with the community service requirement, the resident and any other noncompliant resident must be notified in writing of this determination. If after receiving a notice of initial noncompliance the family does not request an informal settlement conference, 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 Chapter 11 and will also serve as the notice of termination of tenancy.

³⁶ The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation which modified HUD requirements regarding the timing of notices.

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

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

12.7.7 Eviction [24 CFR 966.4(l)(4) and 966.4(m)]

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

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

The HACSB may not proceed with an eviction action if the HACSB has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

12.7.8 Notification to Post Office [24CFR 966.4(l)(5)(iii)(B)]

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

12.7.9 Record Keeping

An electronic, written record of every termination and/or eviction will be maintained by the HACSB 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

12.8 Informal Settlement Conference³⁷

HACSB has an informal settlement conference procedure in place where residents of affordable housing are provided an opportunity to grieve any HACSB action or failure to act involving the lease or HACSB policies which adversely affect their rights, duties, welfare, or status. The HACSB informal settlement conference procedure will be incorporated by reference in the resident lease.

12.8.1 Notification and Comment Incorporation Requirements [24 CFR 966.52]

The HACSB must provide at least 30 days' notice to residents and resident organizations setting forth proposed changes in the HACSB informal settlement conference procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the HACSB before adoption of any changes by the HACSB.

Residents and resident organizations will have 30 calendar days from the date they are notified by the HACSB of any proposed changes to submit written comments to the HACSB. The HACSB will furnish a copy of the informal settlement conference procedure to each resident and to resident organizations.

³⁷ The FY 2011 Moving to Work Annual Plan included Activity 18: Property Management Innovation which provide flexibility regarding the grievance procedure.

12.8.2 Definitions [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used with regard to the informal settlement conference 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 HACSB action or failure to act in accordance with the individual resident’s lease or HACSB regulations which adversely affect the individual resident’s rights, duties, welfare or status
- Complainant – any resident whose grievance is presented to the HACSB
- 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:
 - Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
 - Right of the resident to be represented by counsel
 - Opportunity for the resident to refute the evidence presented by the HACSB including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have
 - A decision on the merits
- Resident – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with the HACSB as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit
- Resident Organization – includes a resident management corporation

12.8.3 Applicability [24 CFR 966.51]

Potential grievances could address most aspects of a HACSB’s operation. However, there are some situations for which the informal settlement conference procedure is not applicable.

The informal settlement conference procedure is applicable only to individual resident issues relating to the HACSB. It is not applicable to disputes between residents not involving the HACSB. Class grievances are not subject to the informal settlement

conference procedure and it is not to be used as a forum for initiating or negotiating policy changes of the HACSB.

HACSB will grant the opportunity for an informal settlement conference for all lease terminations, regardless of cause, but may use expedited procedures for certain terminations. The HACSB will follow expedited informal settlement conference procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the HACSB, or any drug-related criminal activity on or near such premises.

12.8.4 Request for Informal Settlement Conference [24 CFR 966.54]

The HACSB will accept requests for an informal settlement conference either orally or in writing, to the HACSB office within 5 business days of the grievable event. Within 5 business days of receipt of the request the HACSB will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

If a resident fails to attend the scheduled meeting without prior notice, the HACSB will reschedule the appointment only if the resident can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

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

HACSB will create summary of such discussion will be prepared within a reasonable time and one copy will be given to the resident and one retained in the HACSB's resident file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied. The decision made by HACSB after the informal settlement conference is final. Any further action by the resident must be undertaken through judicial proceedings.

If the complainant does not request an informal settlement conference, the HACSB's disposition will become final. However, failure to request an informal settlement conference does not constitute a waiver by the complainant of the right to contest the HACSB's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

12.8.5 Expedited Informal Settlement Conference

The HACSB will follow expedited informal settlement conference procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the HACSB, or any drug-related criminal activity on or near such premises.

Such procedures will provide for an expedited notice of informal settlement conference request, an expedited scheduling of the conference, and for an expedited decision on the grievance. The resident will have 3 business days to make their conference request.

The HACSB will have 3 business days to schedule the conference, and 3 business days to render a decision. All other aspects of the expedited informal settlement conference process shall be the same as for other grievances.

12.8.6 Procedures Governing the Informal Settlement Conference

12.8.6.1 Escrow Deposits

Before an informal settlement conference is scheduled in any grievance involving the amount of rent that the HACSB claims is due, the family must pay an escrow deposit to the HACSB. When a family is required to make an escrow deposit, the amount is the amount of rent the HACSB states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer/panel.

The HACSB must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the HACSB waives the requirement, the family's failure to make the escrow deposit will terminate the informal settlement conference. A family's failure to pay the escrow deposit does not waive the family's right to contest the HACSB's disposition of the grievance in any appropriate judicial proceeding.

The HACSB will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

12.8.6.2 Complainant's Rights

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

- The opportunity to examine before the settlement conference any HACSB documents, including records and regulations that are directly relevant to the conference. The resident must be allowed to copy any such document at the resident's expense. If the HACSB does not make the document available for examination upon request by the complainant, the HACSB may not rely on such document at the settlement conference.
- The resident will be allowed to copy any documents related to the settlement conference at a cost of \$.25 per page. The family must request discovery of HACSB documents no later than 12:00 p.m. on the business day prior to the conference.
- 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. Conferences may be attended by the following applicable persons:
 - A HACSB representative(s) and any witnesses for the HACSB
 - The resident and any witnesses for the resident
 - The resident's counsel or other representative
 - Any other person approved by the HACSB as a reasonable accommodation for a person with a disability
- The right to a private conference unless the complainant requests a public conference.
- The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the HACSB or community management, and to confront and cross-examine all witnesses upon whose testimony or information the HACSB or community management relies.
- A decision based solely and exclusively upon the facts presented at the conference.

12.8.6.3 Accommodations for Persons with Disabilities

The HACSB will provide reasonable accommodation for persons with disabilities to participate in the informal settlement conference. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required in the informal settlement conference process must be in an accessible format.

CHAPTER 13

PROGRAM ADMINISTRATION

13. Introduction

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies discussed are utility allowances, flat rents and maximum rents, repayment of family debts, record keeping, environmental intervention blood lead levels, the Violence Against Women Act and Informal Hearings for Noncitizens.

13.1 Setting Utility Allowances [24 CFR 965 Subpart E]

HACSB establishes allowances for HACSB-furnished utilities that all check metered and for resident-purchased utilities that are purchased directly by residents from a utility supplier. HACSB also establishes surcharges for excess consumption of HACSB-furnished utilities.

HACSB 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.

13.1.1 Utility Allowances [24 CFR 965.503 and 24 CFR 965.505 PH Occ GB, p. 138]

HACSB establishes separate allowances for each utility and for each category of dwelling units that are determined to be reasonably comparable as to factors affecting utility usage. The objective of HACSB 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.

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the HACSB does not furnish a range and refrigerator, the family will be granted a utility allowance for the range and refrigerator they provide. Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage.

13.1.2 Air Conditioning [24 CFR 965.505(e)]

HACSB currently has not installed air conditioning. If HACSB installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.

13.1.3 Utility Allowance Revisions [24 CFR 965.507]

The HACSB will review at least annually the basis on which utility allowances have been established and will revise the allowances if necessary. The HACSB may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based. Between annual reviews of utility allowances, the HACSB will only revise its utility allowances due to a rate change, when required to by the regulation.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

13.1.4 Surcharges for HACSB-Furnished Utilities [24 CFR 965.506]

For dwelling units subject to allowances for HACSB-furnished utilities where check meters have been installed, the HACSB will 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 the HACSB's average utility rate. The basis for calculating the surcharges must be described in the HACSB's schedule of allowances. Changes in the amount of surcharges based directly on changes

in the HACSB's average utility rate are not subject to the advance notice requirements discussed later in this chapter.

For dwelling units served by HACSB-furnished utilities where check meters have not been installed, the HACSB will 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 HACSB-furnished equipment. The surcharge schedule will state the resident-owned equipment (or functions of HACSB-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges will be based on the cost to the HACSB of the utility consumption estimated to be attributable to reasonable usage of such equipment.

The Housing Authority has HACSB-furnished water and has an excess consumption surcharge.

13.1.5 Notice Requirements [965.502]

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

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- 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.
- Notify residents of the place where the HACSB's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

13.1.6 Reasonable Accommodations [24 CFR 965.508 and PH Occ GB, p. 172]

On request from a family that includes a disabled or elderly person, the HACSB will approve a utility allowance that is higher than the applicable amount for the dwelling unit

if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family. Likewise, residents with disabilities will not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

13.2 Establishing Flat Rents and Maximum Rents [24 CFR 5.504]

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. Affordable Housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status.

13.2.1 Flat Rents [24 CFR 960.253(b)]

Flat rents for affordable housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the HACSB could promptly lease the affordable housing unit after preparation for occupancy.

Contingent upon HUD approval of HACSB's 2015 Annual MTW Plan Amendment No. 1, the HACSB will not use 80% of the Fair Market Rent as the minimum flat rent for its affordable housing units. The HACSB will use a reasonable method to determine flat rents and will consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the HACSB
- Utilities provided by the HACSB

In addition to considering the above criteria, HACSB will use its local submarket payment standards as the maximum flat rents for its affordable housing units (Contingent upon HUD approval of HACSB's 2015 Annual MTW Plan Amendment No. 1).

The HACSB must ensure that flat rents continue to mirror market rent values by reviewing flat rents on a regular basis, and adjusting them as necessary. The HACSB will publicly post the flat rent schedule and will maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the HACSB in accordance with this method.

13.2.2 Maximum Rents [24 CFR 5.500]

HACSB is prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status. Therefore, in order to assist mixed families, HACSB will prorate assistance. Affordable housing maximum rents are needed in order to calculate the resident rent for a mixed family.

The affordable housing maximum rent is based on value of the 95th percentile of the total resident payment (TTP) for each resident within the HACSB. HACSB may calculate a maximum rent on either a HACSB- or community wide basis. A separate maximum rent can be provided for each separate community or communities may be combined into logical groups, if appropriate. HUD recommends that a single community basis be avoided for a community unless at least 50 dwelling units are involved.

HACSB may use the "direct comparison" or the "unit distribution" method for establishing the affordable housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish maximum rents using the methodologies identified above.

The HACSB will recalculate the affordable housing maximum rents on an annual basis and will publicly post the schedule of affordable housing maximum rents in a conspicuous manner in the applicable HACSB community office. The HACSB will maintain records that document how the HACSB determined the 95th percentile of TTP, whether the maximum rent was determined HACSB-wide, community-wide, or with groupings of communities, and the methodology used to determine maximum rents for each unit size.

13.3 Family Debts to HACSB

Any amount due to the Housing Authority by a resident must be repaid by the family. If the resident is unable to repay the debt within 30 days, the Housing Authority may offer to enter into a repayment agreement in accordance with the policies below.

If the resident refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Housing Authority will terminate the housing assistance to the family. The Housing Authority may pursue other methods, even after the household is terminated from the program, of collecting the money owed to the Authority.

If a family owes an amount which equals or exceeds \$5,000 as a result of program fraud, the case will be referred to the Office of the Inspector General. Where appropriate, the Housing Authority will refer the case for criminal prosecution.

13.3.1 Repayment Agreements [24 CFR 982.552 (c)(v-vii)]

The Housing Authority may choose to enter into a repayment agreement with a resident who owes money to the Agency. The term repayment agreement refers to a formal document created by the Housing Authority and signed by a resident where the participant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, Housing Authority action upon default of the agreement.

There are some circumstances in which the Housing Authority will not enter into a repayment agreement. They include, but are not limited to, the following:

- If the family already has or has ever had a repayment agreement in place; or
- If the amount is over \$5,000.

The minimum monthly payment amount for any repayment agreement is \$25. Households must pay the Housing Authority on time as specified in the repayment agreement. A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

A late payment will result in the full balance of the repayment agreement to be paid in full and the Housing Authority may begin termination proceedings. A repayment agreement will be considered to be in default when it is in arrears for over thirty (30) days from the date due. If the family's repayment agreement is in default, and the family has not contacted or made arrangements with the Housing Authority, termination procedures will begin.

13.4 Record Keeping

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

In addition, the HACSB will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

13.4.1 Record Retention [24 CFR 908.101]

The HACSB will 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. During the term of each affordable housing tenancy, and for at least four years thereafter, the HACSB also will keep all documents related to a family's eligibility, tenancy, and termination. In addition, the HACSB will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the affordable housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Accounts and other records supporting HACSB budget and financial statements for the program
- Other records as determined by the HACSB or as required by HUD

- If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

13.4.2 Records Management

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

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

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

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

13.4.2.2 Up-front Income Verification Records

HACSB uses UIV data through HUD's Enterprise Income Verification (EIV) System and has adopted and follows 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).

13.4.2.3 Criminal Records [24 CFR 5.903(e), 24 CFR 5.903(g)]

The HACSB may only disclose the criminal conviction records which the HACSB receives from a law enforcement agency to officers or employees of the HACSB, or to authorized representatives of the HACSB who have a job-related need to have access to the information. The HACSB must establish and implement a system of records management that ensures that any criminal record received by the HACSB from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished,

including expiration of the period for filing a challenge to the HACSB action without institution of a challenge or final disposition of any such litigation.

The HACSB must establish and implement a system of records management that ensures that any sex offender registration information received by the HACSB from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACSB action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HACSB other than under 24 CFR 5.905.

13.4.2.4 Medical/Disability Records

HACSB is not permitted to inquire about the nature or extent of a person's disability. The HACSB may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACSB receives a verification document that provides such information, the HACSB will not place this information in the resident file.

13.5 Reporting Requirements for Children with Environmental Intervention Blood Lead Level [24 CFR 35.1130(e)]

The HACSB has certain responsibilities relative to children with environmental intervention blood lead levels that are living in affordable housing. The HACSB will report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The HACSB will also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

13.6 Violence Against Women Act (VAWA): Notification, Documentation and Confidentiality

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the affordable housing program. If state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HACSB policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and HACSB policies are located in Chapter 3, “Eligibility”; Chapter 5, “Occupancy Standards and Unit Offers”; Chapter 8, “Leasing and Inspections”; Chapter 12, “Transfer Policy”; and Chapter 13, “Lease Terminations.”

13.6.1 Definitions [24 CFR 5.2003]

As used in VAWA:

- The term bifurcate means, with respect to an affordable housing or housing services program lease, to divide a lease as a matter of law such that certain residents 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, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- The term affiliated individual means, with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.
- The term immediate family member means, with respect to a person,
- The term stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - Fear for the person’s individual safety or the safety of others; or
 - Suffer substantial emotional distress

13.6.2 Notification to Public [24 CFR 5.2005(a)]

The HACSB will post the following information regarding VAWA in its offices and on its web site. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to affordable housing applicants and residents who are or have been victims of domestic violence, dating violence, sexual assault, or stalking. Form HUD 5380 Notice of Occupancy Rights under VAWA (see sample notice in Exhibit 13-1)
- The definitions of domestic violence, dating violence, sexual assault, and stalking provided in VAWA and an explanation of the documentation that the HACSB may require from an individual who claims the protections provided by VAWA
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation
- A statement of the HACSB's obligation to keep confidential any information that it receives from a victim unless (a) the HACSB has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
- Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>
- National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online//resources/how-ohl-can-help.cfm>. (see Hotline Information in Exhibit 13-2)
- Contact information for local victim advocacy groups or service providers

13.6.3 Notification to Applicants and Residents [24 CFR 5.2005(a)(1)]

The HACSB will provide all applicants with information about VAWA at the time they request an application for housing assistance. The HACSB will also include such information in all notices of denial of assistance.

- The HACSB will provide all residents with information about VAWA at the time of admission and at annual reexamination. The HACSB will also include such information in all lease termination notices.

- The VAWA information provided to applicants and residents will contain a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, Stalking and Alternate Documentation. The Notice of Occupancy Rights under VAWA, form HUD-5380
- The HACSB is not limited to providing VAWA information at the times specified in the above policy. If the HACSB decides to provide VAWA information to a resident 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 the HACSB make alternative delivery arrangements that will not put the victim at risk.
- Whenever the HACSB has reason to suspect that providing information about VAWA to an affordable housing resident might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

13.6.4 Documentation [24 CFR 5.2007]

When HACSB is 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. The HACSB may extend this time period at its discretion. The individual may satisfy the HACSB's request by providing any one of the following three forms of documentation:

- (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 known and can be safely disclosed)
- (2) A federal, state, tribal, territorial, or local police report or court record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the

incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The HACSB may require third-party documentation in addition to certification (form 5382), except as specified below under “Conflicting Certification Documentation”. 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 forms of acceptable documentation, will provide explicit 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. The HACSB may, in its discretion, extend the deadline for 10 business days. Any extension granted by the HACSB will be in writing

13.6.4.1 Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the HACSB 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, the HACSB may determine which is the true victim by requiring each to provide acceptable third-party documentation. In accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

13.6.4.2 Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The HACSB 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. If the HACSB accepts an individual’s statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the HACSB will document acceptance of the statement or evidence in the individual’s file.

13.6.4.3 Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a HACSB 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 the HACSB may allow, the HACSB may deny relief for protection under VAWA.

13.6.5 Confidentiality [24 CFR 5.2007(b)(4)]

All information provided to the HACSB regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the HACSB (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. If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HACSB will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

13.7 Informal Hearings for Noncitizens [24 CFR 5.514]

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

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

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

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

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

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.

- The family may be eligible for proration of assistance.
- In the case of a 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 settlement conference with the HACSB 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 settlement conference process.

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

When the HACSB receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HACSB 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 the HACSB with a copy of the written request for appeal and proof of mailing.

The HACSB will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results. The family must provide the HACSB with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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

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

The HACSB 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.

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

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

The informal hearing procedures for applicant families are described below.

13.7.3.1 Informal Hearing Officer

The HACSB 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.

13.7.3.2 Evidence

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

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of HACSB documents no later than 12:00 p.m. on the business day prior to the hearing.

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

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

13.7.3.3 Representation and Interpretive Services

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

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

13.7.3.4 Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape.

13.7.3.5 Hearing Decision

The HACSB 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.

13.7.3.6 Retention of Documents [24 CFR 5.514(h)]

The HACSB must retain for a minimum of 5 years the following documents that may have been submitted to the HACSB by the family, or provided to the HACSB as part of the USCIS appeal or the HACSB 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

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

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

CHAPTER 14: EMERGENCY OPERATIONS

14. Introduction

On January 31, 2020, Secretary of Health and Human Services Alex M. Azar II declared a public health emergency for the United States in response to an outbreak of a respiratory disease caused by a novel (new) coronavirus, “Coronavirus Disease 2019” (COVID-19). On March 13, 2020, President Trump declared the COVID-19 pandemic a national emergency. In compliance with the recommendations of the Center for Disease Control (CDC), the “stay-at-home” Executive Order issued by California Governor Gavin Newsom on March 19, 2020, and other guidance from local, state and federal agencies, HACSB took steps to reduce contact between individuals, including closing offices to the public and reducing the number of employees in the office through telework and alternative work schedules. As a result, HACSB modified some operations and deferred some functions to a later time. The revisions to the Admissions and Continued Occupancy Policies (ACOP) implemented in response to the emergency are summarized below. The regulatory waivers provided by HUD are specific to the COVID-19 emergency and have sunset dates. The emergency provisions authorized through Amendment 2 of the FY 2020 Moving to Work Plan may be reactivated in response to any future local disaster, emergency, or crisis situation.

14.1 ACOP

The following paragraph is added to Section 1.1 Purpose of the Plan:

In light of the COVID-19 emergency, HUD is temporarily waiving the requirement that any revisions to the ACOP must be formally adopted by the Board of Commissioners. Any informally adopted policy revisions as result of Notice PIH 2020-05 must be formally adopted by the Board of Commissioners as soon as practical, but no later than December 31, 2020. (Waiver authority under Notice PIH 2020-05; extended under Notice PIH 2020-13) Additionally, on April 14, 2020, the HACSB Board of Commissioners granted authorization under Resolution No. 84 for the Executive Director to waive internal policies and modify operations as necessary in response to COVID-19 global pandemic, retroactive to March 4, 2020 and remains in effect until December 31, 2020, unless extended or rescinded by the Board.

14.2 Income and Rent Determinations

The following paragraphs were added to Section 5.3.4.2 Temporary Hardship Exemption:

Housing Authority of the County of San Bernardino

Affordable Housing Programs ACOP

Revised: **February 2021**

During the COVID-19 emergency, SLA families experiencing a significant loss of income as a result of the current crisis may be approved for a hardship exemption for six months. This new hardship exemption category will follow the application, review and approval policies and procedures currently in place for other hardship categories. (Activity 22: Streamlined Lease Assistance Program, 2020 MTW Plan Amendment No.2)

The loss of income as a result of the current crisis could include but is not limited to:

- Closure of place of work;
- Reduced hours;
- Unable to work due to lack of childcare or school closure;
- Developing symptoms or being hospitalized;
- Being quarantine; or
- Caring for a sick family member.

Effective March 19, 2020, the following policies apply to the COVID-19 Hardship Exemptions and the period of applicability is subject to available COVID-19 funding:

- A COVID-19 hardship request will be accepted even if the family was already approved for another hardship exemption within the last twelve months. This may include more than one COVID-19 hardship exemption for two separate events, such as reduction in hours followed by layoff.
- If a family has an approved hardship exemption for loss of income that is expiring between April 1 and July 31, 2020 (unless further extended), the family may request a COVID-19 hardship exemption to extend the existing hardship rent for an additional 6 months if they have unable to secure new employment or secured new employment but were laid off again due to COVID-19. This “extension” will be processed as a new COVID-19 hardship exemption.
- Approved COVID-19 hardship exemptions may be extended for up to six additional months subject to available funding if the resident's circumstances have not changed at the end of the first exemption period.
- Rent adjustments will be made the 1st of the month following the date of the receipt of the written request with the exception of requests received on the 1st of the month immediately following a weekend or holiday. Those requests will be processed effective the 1st of that particular month.
- Third party written documentation of a COVID-19 related income loss will be requested. If documentation is not available, the AHS will attempt to obtain a verbal verification. If a verbal verification cannot be obtained, a tenant declaration will be accepted.

Housing Authority of the County of San Bernardino

Affordable Housing Programs ACOP

Revised: **February 2021**

14.3 Recertifications

The following paragraph is added to Section 8.4 Over-income Families:

(1) During the COVID-19 emergency, over-income SLA, Tiered Lease Assistance and Transitional assistance for MTW families scheduled to expire between April 1 and September 30, 2020 will be extended six months. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher Families, 2020 MTW Plan Amendment No. 2)

The following paragraph is added to Section 8.4.1 Hardship Exemption for Over-Income Families:

(2) During the COVID-19 emergency, HACSB will extend the grace period for another six months for over-income families whose end of term is scheduled between April 1, 2020 and September 30, 2020. (Activity 24: Transition of Over-Income Public Housing/Housing Choice Voucher, 2020 MTW Plan Amendment No. 2).

The following paragraph is added to Section 8.1.4: Conducting Recertifications

During a local disaster, emergency or crisis situation, HACSB will extend deadlines for residents to provide records or documents needed to determine ongoing eligibility for the program. If documents are missing from the recertification packet, a resident will be given at least two (2) notices to submit the requested items. Residents requesting extensions will be granted at least ten (10) additional days or other reasonable extension on a case by case basis.

14.4 Lease Terminations and Informal Settlement Conference

The following paragraph is added to Section 12.8 Informal Settlement Conference:

(1) During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

The following paragraph is added to Section 12.8.4 Request for Informal Settlement Conference (24CFR 966.54):

(2) During the COVID-19 emergency, HACSB has the option to conduct remote meetings through different contactless methods such as conference call, video or other methods

available. (Activity 18: Property Management Innovation, 2020 MTW Plan Amendment #2).

14.5 Final Eligibility Determination

The following paragraph is added to Section 3.3.10: Final Eligibility Determination

During a local disaster, emergency or crisis situation, HACSB will extend deadlines for applicants to provide records or documents needed to determine initial eligibility for the program. If documents are missing from the Full Application packet, an applicant will be given at least two (2) notices to submit the requested items. Applicants requesting extensions will be granted at least ten (10) additional days or other reasonable extension on a case by case basis.

14.6 Community Service Requirement

During a local disaster, emergency or crisis situation, HACSB will suspend the community service requirement (PIH-Notice 2020-33) for Public Housing families who are unable to comply with this requirement due to a local disaster.

No change to the ACOP, Section 10.1: Community Service Requirement will be necessary since this change is temporarily in place until June 30, 2021.

14.7 Annual Self-Inspections

During the COVID-19 emergency, HACSB has the option to suspend annual self-inspections per PIH-Notice 2020-33. This inspection suspension does not alleviate

Housing Authority of the County of San Bernardino

Affordable Housing Programs ACOP

Revised: **February 2021**

HACSB of its responsibility to provide safe housing. HACSB is currently addressing urgent and emergency items that could jeopardize life or property.

No change to the ACOP, Section 7.2.3: Annual Inspections will be necessary since this change is temporarily in place until December 31, 2020.