



Housing Authority of New Haven

The Admissions & Continued Occupancy Policy (ACOP)

Low Income Public Housing (LIPH)

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RESOLUTION #11-84/25-R

SHENAE DRAUGHN, PRESIDENT

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Public Housing Agency (PHA), ECC/HANH, receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA – Elm City Communities/Housing Authority of the City of New Haven (ECC/HANH) and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the ACOP and guide.

There are three parts to this chapter:

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

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

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

PART I: THE PHA – ELM CITY COMMUNITIES/HOUSING AUTHORITY OF THE CITY OF NEW HAVEN (ECC/HANH)

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF THE ECC/HANH

Public housing is funded by the federal government and administered by the Elm City Communities/Housing Authority of New Haven (ECC/HANH) for the jurisdiction of the City of New Haven, Connecticut.

ECC/HANH is governed by a board of officials that are generally called “Commissioners.” Although some PHAs may use a different title for their officials, this document will hitherto refer to the “Board of Commissioners” or the “Board” when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board of Commissioners establishes policies under which ECC/HANH conducts business and ensures that those policies are followed by ECC/HANH staff. The board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability and success.

Formal actions of ECC/HANH are taken through written resolutions, adopted by the Board and entered into the official records of ECC/HANH.

The principal staff member of ECC/HANH is the President/Executive Director (ED), who is selected and hired by the board. The ED oversees the day to day operations of ECC/HANH and is directly responsible for carrying out the policies established by the Commissioners. The ED’s duties include hiring, training, and supervising ECC/HANH’s staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

1-I.C. ECC/HANH MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

ECC/HANH Mission

To make a positive difference in the lives of residents of the City of New Haven through the development and operation of affordable communities of choice and by providing opportunities for greater self-sufficiency.

ECC/HANH Vision

We envision a New Haven where every resident has a safe and decent home that they can afford and opportunities to fulfill their goals.

1-I.D. ECC/HANH's COMMITMENT TO ETHICS AND SERVICE

As a public service agency, ECC/HANH is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, ECC/HANH resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing ECC/HANH's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of ECC/HANH's support systems and commitment to our employees and their development.

ECC/HANH will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The ACOP is required by HUD. The purpose of the ACOP is to establish policies for carrying out the LIPH programs in a manner consistent with HUD requirements and local goals and objectives contained in ECC/HANH Moving to Work (MTW) agency plan. This ACOP is a supporting document to the (MTW) agency plan and is available for public review as required by CFR 24 Part 903.

This ACOP is set forth to define ECC/HANH’s local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the LIPH program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The policies in the ACOP apply to all ACC units and LIPH residents, including those in third party LIHTC properties.

Administration of the LIPH program and the functions and responsibilities of ECC/HANH staff shall be in compliance with the ECC/HANH’s personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the PHA (ECC/HANH) to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA’s Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the Board of Commissioners of the PHA.

The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are determined to be eligible for the program, the PHA makes an offer of a housing unit. If the applicant accepts the offer, the PHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

The terms “tenant” and “resident” are used interchangeably in this policy. Additionally, this policy uses the term “family” or “families” for residents or applicants, depending on context.

Since the PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

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

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

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

What does HUD do?

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

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

What does the ECC/HANH do?

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

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure ECC/HANH has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service

- Comply with HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, ECC/HANH ACOP, and other applicable federal, state and local laws.

What does the tenant do?

The tenant’s responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and ECC/HANH house rules, as applicable
- Provide ECC/HANH with complete and accurate information, determined by ECC/HANH to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by ECC/HANH
- Allow ECC/HANH to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify ECC/HANH before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify ECC/HANH of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to ECC/HANH promptly

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

The ACOP is ECC/HANH'S written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in ECC/HANH'S Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. ECC/HANH is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

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

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

New Approach to Policy Development

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

A primary focus of HUD's Rental Integrity Monitoring (RIM) program has been consistency in how ECC/HANH conduct its business and in how HUD monitors ECC/HANH activities. Referring to and following the ACOP is essential to maintaining consistency in applying ECC/HANH policy.

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

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

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

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

1-III.C. UPDATING AND REVISING THE POLICY

ECC/HANH will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the Board of Commissioners of ECC/HANH, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

ECC/HANH Policy

ECC/HANH will review and update the ACOP as needed to reflect changes in regulations, ECC/HANH operations, or when needed to ensure staff consistency in operation.

1-III.D. ECC/HANH NO SMOKING POLICY

STATEMENT OF PURPOSE

Elm City Communities, Housing Authority of New Haven (ECC/HANH) recognizes the importance of providing a smoke-free environment for all its employees, Commissioners, residents, guests and service personnel. The purpose is to mitigate the irritation and known health effects of secondhand smoke. To minimize maintenance, cleaning, and redecorating costs associated with smoking. To decrease the risk of smoking related fires to property and personal safety and also to reduce costs of fire insurance for a non-smoking-free building(s). To allow staff the opportunity to perform their job duties in an environment that is non-smoking.

APPLICABILITY

This Policy applies to all ECC/HANH employees, Board of Commissioners, residents, guests and service personnel. Nothing in this Policy is intended to conflict with or supersede any applicable state or federal law or Policy concerning smoking bans by Public Housing Authorities. Any potential conflict with the foregoing must be brought to the attention of the President, or his or her designee. In this policy, the use of the term “employee” is defined as all individuals applicable under this policy.

POLICY

Due to the increased risk of fire, and the known health effects of second-hand smoke, smoking is prohibited in any area of the property, site or premises, both private and common, indoors of the building(s) including entryways, balconies and patios.

- Smoke-free Environment includes any and all property and grounds owned and operated by ECC/HANH (which shall include all conventional developments, Scattered Sites, management offices and other administrative facilities, and ECC/HANH owned vehicles).
Smoking means inhaling, exhaling, breathing, burning of any lighted cigar, cigarette, including electronic nicotine delivery systems (ENDS), e-cigarettes, pipe, other tobacco products, marijuana, or illegal substance of any similar lighted product in any manner.
- The premises to be occupied by Tenant and members of Tenant's household have been designated as a smoke-free living environment. Tenants, members of Tenant's household and their guests shall not smoke anywhere in the interior or exterior space rented by Tenant. This includes, but is not limited to, bedrooms, hallways, kitchens, bathrooms, living rooms, patios, balconies and unit entryway areas. This shall also include the common areas, community rooms or adjoining grounds of such building.
- ECC/HANH shall post no-smoking signs at entrances and exits to their properties and all buildings, common areas, hallways and management offices owned and

operated by ECC/HANH.

GUARANTOR

The adoption of a smoke-free living environment and the efforts to designate the rental complex as smoke-free, do not make ECC/HANH or any of its managing agents the guarantor of Tenant's health or of the smoke-free condition of the tenant's unit and the common areas. However, ECC/HANH shall take reasonable steps to enforce the smoke-free terms of its leases and to make the complex/development smoke-free.

VIOLATION OF POLICY

- The first violation of the smoke free policy will result in a verbal warning by Property Manager.
- The second violation of the smoke free policy will result in a written warning by the Property Manager, which shall include documentation on the cessation of smoking and a referral to the Resident Service Coordinator.
- The third violation of the smoke free policy will result in a \$25.00 fine applied to the tenant's account, along with documentation on the cessation of smoking.
- The fourth violation of the smoke free policy will result in a \$50.00 fine applied to the tenant's account, along with documentation on the cessation of smoking.
- The fifth violation of the smoke free policy will result in a \$75.00 fine applied to the tenant's account and notification of lease violation and could result in an eviction proceeding against the household.

This ACOP was last revised and approved by the ECC/HANH Board of Commissioners on June 21, 2022, Resolution #06-24/22-R.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring ECC/HANH to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of ECC/HANH's public housing operations.

This chapter describes HUD regulations and ECC/HANH policies related to these topics in three parts:

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of ECC/HANH to ensure meaningful access to the Public Housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- The Violence against Women Act of 2013 (VAWA)
- Housing Provisions of the Violence Against Women Act (VAWA) Reauthorization Act of 2022
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, 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.

ECC/HANH Policy

The State of Connecticut has established creed, ancestry and marital status as protected classes, in addition to the Federal and HUD protections. The state of Connecticut also prohibits discrimination based on income source.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as ECC/HANH policy, can prohibit discrimination against additional classes of people.

ECC/HANH shall not discriminate because of race, color, sex, religion, familial status, marital status, gender identity, sexual orientation, age, disability, income source, or national origin as established by federal and state laws (called protected classes).

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

ECC/HANH will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

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

Providing Information to Families

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

Discrimination Complaints

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

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

Upon receipt of a housing discrimination complaint, ECC/HANH is required to:

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

ECC/HANH Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify ECC/HANH either orally or in writing.

Within 10 business days of receiving the complaint, ECC/HANH will provide a written notice to those alleged to have violated the rule. ECC/HANH will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

ECC/HANH will attempt to remedy discrimination complaints made against ECC/HANH and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of ECC/HANH's investigation, ECC/HANH will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

ECC/HANH will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

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

ECC/HANH Policy

ECC/HANH will ask all applicants and resident families if they require any type of accommodation, in writing, on the intake application, reexamination documents, and notices of adverse action by ECC/HANH, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific reasonable accommodation in order to fully utilize our programs and services, please contact ECC/HANH staff or the Reasonable Accommodation Manager.”

The family may complete and submit the Reasonable Accommodation request form, or may request a reasonable accommodation orally, and the request will be passed on to the designated staff person, the Reasonable Accommodation Manager.

ECC/HANH will display posters and other housing information and signage in locations throughout ECC/HANH offices in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

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

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

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

ECC/HANH Policy

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

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, ECC/HANH must determine that the person meets the definition of a person with a disability, and that the accommodation is necessary for a family to have access to ECC/HANH's programs and services.

If a person's disability is obvious or otherwise known to ECC/HANH, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to ECC/HANH, ECC/HANH must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- ECC/HANH must request only information that is necessary to evaluate the disability-related need for the accommodation. ECC/HANH may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the tenant file.

- In the event that ECC/HANH does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, ECC/HANH will dispose of it. In place of the information, ECC/HANH will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

ECC/HANH must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on ECC/HANH, or fundamentally alter the nature of ECC/HANH's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of ECC/HANH's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

ECC/HANH Policy

Requests will be acted on promptly; a person can generally expect a response within 30 days of submission of the reasonable accommodation request. Circumstances that may cause a delay in processing include but are not limited to: delay in obtaining verification of the need for the reasonable accommodation, or failure of the family to clearly specify the requested accommodation or to provide the name and address of their designated verification source.

An approved reasonable accommodation will not be re-verified by ECC unless the Family demonstrates that the accommodation is no longer required for a disability. In such cases, ECC will enter into communications with the Family about the continued need for the accommodation.

If the family fails to specify the requested accommodation, provide the name and address

of their verifications source, or provide requested verification to ECC/HANH, ECC/HANH will notify the family and inform the family that ECC/HANH is unable to make a determination.

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

If ECC/HANH believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HANH will notify the family, in writing, of its determination within 10 business days from the date of ECC/HANH's determination of denial. The notice will inform the family of the right to appeal ECC/HANH's decision through an informal hearing (if applicable) or the grievance process (Chapter 14) and will also notify the family that they may appeal to HUD and provide information on how to do so.

If ECC/HANH believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, ECC/HANH will notify the family, in writing, of its determination within 10 business days from the date of ECC/HANH's determination of denial. The notice will inform the family of the right to appeal ECC/HANH's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

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

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

ECC/HANH Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

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 ECC/HANH staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant or tenant) to receive,

interpret and explain housing materials and be present at all meetings.

Large print notices will be posted in central and local offices informing families of the availability of such accommodations, and staff will explain the availability of these accommodations during face-to-face meetings.

2-II.G. PHYSICAL ACCESSIBILITY

ECC/HANH must comply with a variety of regulations pertaining to physical accessibility, including

- 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

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

- This Admissions and Continued Occupancy Policy, which describes the key policies that govern the ECC/HANH'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 ECC/HANH Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of ECC/HANH facilities must conform 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 must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with ECC/HANH's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, ECC/HANH must consider whether reasonable accommodation will allow the family to overcome the problem that led to the ECC/HANH's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, ECC/HANH must make the accommodation [24 CFR 966.7].

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

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

ECC/HANH will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, ECC/HANH will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to ECC/HANH and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on ECC/HANH.

ECC/HANH Policy

Affirmative Measures for Spanish Speaking LEP Persons

As a result of ECC/HANH's analysis of (1) the number and proportion of LEP persons serviced or encountered in ECC/HANH's eligible service population, and (2) the frequency with which LEP persons come into contact with ECC/HANH's programs, ECC/HANH has determined that ECC/HANH has particular obligations to ensure communication with Spanish-speaking persons.

Accordingly, it is ECC/HANH's policy that ECC/HANH will provide bilingual Spanish-speaking staff as necessary to provide oral language/interpreter services for Spanish-speaking LEP applicants, program participants, or other members of the public interested

in ECC/HANH's services.

ECC/HANH will provide the following vital documents in both English and Spanish:

- Pre-applications and full applications
- Recertification materials
- The public housing lease (recognizing that HUD states that the English version is the one that will be utilized in court proceedings)
- Rent change documents
- Notices of negative action
- Documents pertaining to the grievance process
- Pre-termination notices
- Notices to quit
- Summary process complaints (recognizing that the English version will be filed in court)

It is ECC/HANH's general policy to communicate effectively with applicants and program participants. Therefore, the majority of documents, if not all documents, provided to Spanish speaking families will be in Spanish.

2-III.B. ORAL INTERPRETATION

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

ECC/HANH Policy

ECC/HANH will utilize a language line for telephone interpreter services.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by ECC/HANH. The interpreter may be a family member or friend.

ECC/HANH will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), ECC/HANH will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

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

ECC/HANH Policy

In order to comply with written-translation obligations, ECC/HANH will take the following steps:

ECC/HANH will provide written translations of vital documents for each additional eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, ECC/HANH does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

If ECC/HANH determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to ECC/HANH's public housing program and services.

ECC/HANH Policy

If it is determined that ECC/HANH serves very few LEP persons, and ECC/HANH has very limited resources, ECC/HANH will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants may be contacted for input into the process.

If ECC/HANH determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

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

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

fair housing laws and regulations.

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

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

PART IV: THE VIOLENCE AGAINST WOMEN ACT (VAWA)

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Final Rule, published in the *Federal Register* on November 16, 2016, (81 Fed. Reg. 80724 (November 16, 2016))

(VAWA Final Rule) with respect to the Public Housing and Housing Choice Voucher (HCV) programs.

This notice supersedes HUD Notices PIH 2006-23, 2006-42, and 2007-5.

On March 7, 2013, the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) (VAWA 2013) was signed into law. VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.

On November 16, 2016, HUD published its VAWA Final Rule implementing the requirements of VAWA 2013 through HUD regulations (81 FR80724).

Major changes for the Public Housing, HCV, and PBV programs include:

- Specifies “sexual assault” as a crime covered by VAWA in HUD-covered programs. (See 24 CFR 5.2003.)
- Clarifies that, consistent with HUD’s nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD programs must also be operated consistent with HUD’s Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).)
- Establishes new definitions (e.g., affiliated individual and sexual assault, and others) and revises previously defined terminology (e.g., bifurcate and stalking). (See 24 CFR 5.2003.)
- Establishes new requirements for notification of occupancy rights under VAWA and transmits a model *Notice of Occupancy Rights Under the Violence Against Women Act* (form HUD-5380). (See 24 CFR 5.2005(a).)
- Provides that applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(b)(1).)
- Establishes the requirement to establish an emergency transfer plan, establishes record keeping and reporting requirements, and provides a model *Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* (form HUD-5381), and *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* form (form HUD-5383). (See 24 CFR 5.2005(e).)

- Revises requirements for documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking, and provides a new *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* (form HUD-5382). (See 24 CFR 5.2007.)
- Where the covered housing provider exercises the option to bifurcate a lease and the evicted or terminated tenant was the recipient of assistance at the time of bifurcation, establishes a new requirement for reasonable time periods during which a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may remain in the unit while establishing eligibility under the current housing program or under another covered housing program, or seeking alternate housing. (See 24 CFR 5.2009(b).)
- Revises various HCV, PBV, and public housing regulations from the 2005 reauthorization of VAWA to broadly state that VAWA protections apply, so that all tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights.
- Clarifies that PHAs **may** establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence. (See 24 CFR 960.206(b)(4), and 982.207(b)(4).)
- Establishes new requirements under PBV for a family’s right to move as a result of the family, or a member of the family, being or having been the victim of domestic violence, dating violence, dating violence, sexual assault, or stalking. (See 24 CFR 983.261.)

The Violence Against Women Reauthorization Act of 2022

The Violence Against Women Reauthorization Act of 2022 includes new requirements that the U.S. Department of Housing and Urban Development (HUD or the “Department”) implement and enforce VAWA’s housing rights and ensure that program participants comply with those requirements.

It requires HUD and the Attorney General of the United States to implement and enforce the housing provisions of VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for in the Fair Housing Act (42 U.S.C. 3601-19).

Also, as described in Section V of this notice, VAWA 2022 requires that HUD establish a process to review compliance with the applicable requirements in the housing provisions of VAWA, and to have regulations to govern that process.

HUD also added requirements for the filing and processing of individual VAWA complaints with its Office of Fair Housing and Equal Opportunity (FHEO) and informing HUD’s covered housing providers of its authority to investigate potential violations of the applicable requirements in the housing provisions of VAWA.

VAWA is a federal law that protects individuals who are survivors of domestic

violence, dating violence, sexual assault, and stalking, regardless of sex, sexual orientation, or gender identity.

VAWA includes protections for survivors who are applying for or residing in covered housing programs.’ On March 15, 2022, President Biden signed into law the Consolidated Appropriations Act of 2022,² which included the Violence Against Women Act Reauthorization Act of 2022 (“VAWA 2022”). VAWA 2022 reauthorizes, amends, and strengthens VAWA. The VAWA amendments took effect on October 1, 2022.

The key changes in VAWA 2022 definition in the housing programs.

VAWA 2022 revises the definition of “domestic violence” and adds the definitions of “economic abuse” and “technological abuse.”

The statutory definitions are as follows:

“DOMESTIC VIOLENCE. —The term ‘domestic violence’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

(A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;

(B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) shares a child in common with the victim; or

(D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

“ECONOMIC ABUSE.—The term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—

(A) restrict a person’s access to money, assets, credit, or financial information;

(B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or

(C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary

duty.”

“TECHNOLOGICAL ABUSE—The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.”

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and ECC/HANH.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for household members as required.
 - Consent to ECC/HANH's collection and use of family information as provided for in the ECC/HANH-provided consent forms.
- ECC/HANH must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or ECC/HANH.

This chapter contains three parts:

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

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

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause ECC/HANH to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

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

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. ECC/HANH has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

ECC/HANH Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must notify ECC/HANH if the family's composition changes.

Household

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

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

ECC/HANH determine which family member continues to be assisted if the family breaks up, unless:

- If family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, ECC/HANH must ensure that the victim retains assistance (see chapter 16).
- If a court determines the disposition of property between members of the assisted family, ECC/HANH is bound by the court's determination.

Family Breakup

ECC/HANH Policy

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

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

In the absence of a judicial decision or an agreement among the original family members, ECC/HANH will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, ECC/HANH will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity; (5) the recommendations of social service professionals and (6) which family member was the head of household at the time of initial application.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

Head of household (HOH) is the adult member of the family who is considered the head for purposes of determining eligibility and rent. The HOH is responsible for ensuring that the family fulfills all responsibilities under the program, alone or in conjunction with a cohead or spouse.

ECC/HANH Policy

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.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

ECC/HANH Policy

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

For proper application of the Noncitizens Rule, the definition of spouse is the marriage partner who, in order to dissolve the relationship, would have to be divorced.

A *cohead* 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 cohead.

ECC/HANH Policy

Minors who are emancipated under state law may be designated as a cohead.

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

3-I.F. 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, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

ECC/HANH Policy

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

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a

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

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

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent ECC/HANH from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

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

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

The lease provides that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near ECC/HANH premises,

ECC/HANH Policy

A resident family must notify ECC/HANH when overnight guests will be staying in the unit for more than 14 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

Visits of less than 14 days need not be reported to or approved by the Property Manager, but shall count for the 14-day maximum stay for guests.

Visits of more than 14 calendar days (extensions) may be authorized by the Property Manager only, with advanced documentation of extenuating circumstances.

Generally, persons who have no previous history of behavior on ECC/HANH premises that would be a lease violation are permitted to be guests. Former residents who have been evicted are not permitted as overnight guests.

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 public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)]. *Foster child* is not specifically defined by the regulations.

Foster children / adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction.

ECC/HANH Policy

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.

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

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons.

Definitions of Temporarily and Permanently Absent

ECC/HANH Policy

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

Absent Students

ECC/HANH Policy

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 ECC/HANH indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

ECC/HANH Policy

If a child has been placed in foster care, ECC/HANH 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.

Absent Head, Spouse, or Cohead

ECC/HANH Policy

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

Individuals Confined for Medical Reasons

ECC/HANH Policy

ECC/HANH will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent.

If the family certifies that the family member is confined on a permanent basis, they may present, and ECC/HANH will consider, any additional documentation or evidence.

If the family member is expected to be temporarily absent for more than 180 calendar days, ECC/HANH may require reverification of the temporary absent status.

ECC/HANH's decision is subject to reasonable accommodation requirements.

Return of Permanently Absent Family Members

ECC/HANH Policy

The family must request ECC/HANH approval for the return of any adult family members that ECC/HANH has determined to be permanently absent. Return of an adult family member that necessitates a transfer to a larger unit will only be considered as a reasonable accommodation or in case of a medical hardship. The individual is subject to the eligibility and screening requirements discussed in this chapter.

3-I.M. LIVE-IN AIDE

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

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

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

ECC/HANH Policy

A family's request for a live-in aide must be through the reasonable accommodation process. ECC/HANH will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, at ECC/HANH discretion, the family may be required to submit a new, written request, subject to ECC/HANH verification.

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

ECC/HANH has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- The person has a history of drug-related criminal activity or violent criminal activity; or

- The person currently owes rent or other amounts to ECC/HANH or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

- The person does not meet ECC/HANH's tenant selection criteria (see Chapter 4).

Within 30 days of receiving a request for a live-in aide, including all required documentation related to the request, ECC/HANH will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the annual income of an applicant must be within the *low-income* limit.

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

At least 40 percent of the families admitted from the ECC/HANH waiting list to the public housing program during the ECC/HANH fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement."

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

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with ECC/HANH's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to 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, cohead, 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.

U.S. Citizens and Nationals

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

ECC/HANH Policy

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

Eligible Noncitizens

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

Lawful residents of the 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].

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 cohead (regardless of citizenship status), indicating their ineligible immigration status. ECC/HANH 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.

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 grievance hearing procedures.

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

ECC/HANH 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 ECC/HANH that the individual or at least one family member is eligible [24 CFR 5.512(a)].

ECC/HANH Policy

ECC/HANH will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When ECC/HANH 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 a grievance hearing with ECC/HANH. The grievance hearing with ECC/HANH may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process.

Grievance hearing procedures are contained in Chapter 14.

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

For new occupants joining the resident family ECC/HANH 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, ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will verify the status of applicants at the time other eligibility factors are determined.

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

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.

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

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

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

- In addition, HUD requires or permits ECC/HANH to deny admission based on certain types of current or past behaviors of family members as discussed in this part. ECC/HANH's authority in this area is limited by the Violence against Women Act of 2013 (VAWA) and Housing Provisions of the Violence Against Women Act (VAWA) Reauthorization Act of 2022, which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

This part covers the following topics:

- Required denial of admission, other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, or stalking
- Notice of eligibility or denial

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

ECC/HANH is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if ECC/HANH has reasonable cause to believe that a 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.

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

HUD requires ECC/HANH 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. The prohibition is three years, from the date of eviction. However, HUD permits but does not require ECC/HANH to admit an otherwise-eligible family if the household member has completed a ECC/HANH-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

ECC/HANH Policy

ECC/HANH will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if ECC/HANH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by ECC/HANH, or the person who committed the crime is no longer living in the household.

- ECC/HANH 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)].

ECC/HANH Policy

Currently engaged in is defined as any use of illegal drugs during the previous 12 months. ECC/HANH may admit an otherwise-eligible family who has used illegal drugs during the previous 12 months if ECC/HANH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by ECC/HANH, or the person who committed the crime is no longer living in the household.

- ECC/HANH 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.

ECC/HANH Policy

In determining reasonable cause, ECC/HANH will consider all credible evidence, including but not limited to, any record of convictions, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. ECC/HANH 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.

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

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

ECC/HANH Policy

Inability to Secure Utilities

ECC/HANH will deny admission to any family moving into a general occupancy (family) development that is unable to demonstrate ability to put electricity and gas in the

name of the head of house, spouse or cohead at a site where a family is responsible for turning on and paying for said utility.

Criminal Activity [24 CFR 960.203(c)]

ECC/HANH is responsible for screening family behavior and suitability for tenancy. In doing so, ECC/HANH may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

ECC/HANH Policy

Except as mandated by federal law, no applicant will be automatically denied because of his or her criminal background.

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community. ECC/HANH has identified particular criminal convictions that may suggest future risk (see below) and thus warrant closer examination of an individual's application.

Applicants with criminal convictions that do not fall into one of the below categories and time periods will be deemed admissible, assuming he or she is otherwise eligible for housing assistance. For any applicant with criminal history that falls into one of the below categories and time periods, ECC/HANH will individually determine whether or not the particular applicant poses a significant level of risk to the safety and well-being of the community, and will only deny an applicant after making such a determination. This determination will be based on the totality of the circumstances, as explained by the written criteria provided in Section 3-III.E. Before making a decision to admit or deny applicants with relevant criminal convictions, the applicant shall be given an opportunity for an in-person individualized review based on accurate information, including notice and opportunity to be heard [hereinafter "further review"]. Individual circumstances and the potential impact on safety of other residents should be taken into account in the decision as outlined below. Should the applicant forgo the opportunity to present additional information during further review, ECC/HANH will make its admission decision as outlined in Section 3-III.E absent any additional information.

If the applicant seeks to join a family member's existing lease, please consult Section 9-III.B., which explains the Community Reunification Program. The Community Reunification Program describes ECC/HANH's policy of waiving the criminal background screening criteria, with the exception of the HUD mandatory denial of admission, for individuals who seek to join a family member's existing lease.

Applicants with particular criminal history may wish to apply to the Community Re-entry Pilot Program, which has separate criteria for eligibility (see Section 4-III.B.).

With the exception of applicants for the Department of Mental Health and Addiction Services (DMHAS) supportive housing program or the Community Re-entry Program, and any other similar programs, which are subject to separate admissions standards. ECC/HANH will make an individualized determination of an applicant's risk to the safety

and well-being of the community, including an opportunity for the applicant to present information during “further review”, for the below criminal activities as applied to all adult household members:

#	TYPE	CRIME CATEGORY	SUBCATERGORY	TIME PERIOD FOR REVIEW
1	Mandatory HUD	Lifetime sex offender registration; Production or manufacture of methamphetamine on the premises of federally assisted housing	Felony Misdemeanor	Review for confirmation of accuracy
2	Crimes Against Persons	Criminal forcible sexual conduct (child molestation, child sexual abuse, child pornography); Terrorism; Homicide, murder, manslaughter; Use of a firearm against a person; Armed robbery offenses; Kidnapping/Abduction/Human Trafficking;	Felony	Review if felony is within 5 years from date of conviction
3		Assault and battery; Non-forcible sex offenses; Stalking; Domestic Violence	Felony, Misdemeanor	Review if felony within 5 years from date of conviction and misdemeanor within 3 years from date of conviction
4	Crimes Against Society	Possession or sale of illegal firearms	Felony, Misdemeanor	Review at any time when an applicant has this type of conviction; and misdemeanor within 3 years from the date of conviction
5		Burglary Breaking and Entering Robbery Offenses	Felony, Misdemeanor	Review if felony within 5 years from date of conviction; and misdemeanor within 3 years

				from date of conviction
6		Any household member has ever been convicted of drug-related criminal activity. Possession with intent to manufacture, sell, distribute or use the drug; Criminal activity that shows a pattern or history of abuse of alcohol, illegal or prescription drugs and narcotics	Felony Misdemeanor	Review if use is within 1 year: Review if felony within 5 years from date of conviction and misdemeanor within 3 year from date of conviction
7	Crimes Against Property	Theft; Stolen Property; Fraud Related offenses Destruction of Property Vandalism Arson	Felony	Review if felony within 5 years from date of conviction
8	Multiple Offenses	2,3,4,5,6,7	If two of more convictions	Review if two or more convictions are within previous 10 years

In making its individualized decision whether to deny assistance, ECC/HANH will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, ECC/HANH may, on a case-by-case basis, decide not to deny assistance.

Misrepresentation and Mistakes

An applicant’s intentional misrepresentation of information related to eligibility, preference for admission, housing history, income, allowances, family composition or rent will result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of ECC/HANH’s lease, either alone or with assistance that they can demonstrate they will have at the time of admission.¹

¹ Applicants whose landlord, financial, criminal and other references demonstrate that they are already willing and able to comply with lease terms in their existing housing will be considered to have met this criterion, whether or not they are disabled. Applicants whose housing situations make it difficult for ECC/HANH to determine whether or not they are able and willing to comply with lease terms (e.g. because they are homeless, are living with friends or

Availability of assistance is subject to verification by ECC/HANH. 24 CFR § 8.2

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

HUD authorizes ECC/HANH 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, ECC/HANH must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will deny admission to an applicant family if ECC/HANH determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants

Has a pattern of eviction (two or more) from housing or termination from residential programs within the past five years (considering relevant circumstances)

The family owes rent or other amounts to any PHA in connection with the HCV, Mod Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward ECC/HANH personnel

Abusive or violent behavior towards ECC/HANH 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

relatives, or have other non-traditional housing circumstances) will have to demonstrate ability and willingness to comply with lease terms whether or not they are disabled.

be considered abusive or violent behavior. Actions or language that can be construed as sexual harassment will be considered abusive behavior.

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

In making its decision to deny admission, ECC/HANH will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, ECC/HANH may, on a case-by-case basis, decide not to deny admission. ECC/HANH will also consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

ECC/HANH is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists ECC/HANH in complying with HUD requirements and ECC/HANH policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records ECC/HANH must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

ECC/HANH Policy

ECC/HANH will perform criminal background checks through a contracted private entity that conducts criminal checks of national law enforcement records for all adult household members. If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, ECC/HANH may request a fingerprint card and will request information from either the appropriate law enforcement agency or the National Crime Information Center (NCIC).

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

ECC/HANH Policy

ECC/HANH will perform sex offender registration criminal background checks through a contracted private entity that conducts criminal checks of national law enforcement records for every adult household member.

Additionally, ECC/HANH must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

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

ECC/HANH Policy

If ECC/HANH proposes to deny admission based on a criminal record or on lifetime sex offender registration information, ECC/HANH will notify the household of the proposed action and will provide the applicant and the subject of record the opportunity to review a copy of such information, and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission within 10 business days from the notice of intent to deny based on criminal records.

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes ECC/HANH to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, ECC/HANH may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform ECC/HANH whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after ECC/HANH has made a final decision to either approve or deny the admission of such person.

Any charges incurred by ECC/HANH for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If ECC/HANH chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

ECC/HANH Policy B

ECC/HANH 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 ECC/HANH 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.

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

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

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

Evidence

ECC/HANH Policy

ECC/HANH will use the preponderance of the evidence as the standard for making all admission decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

HUD authorizes ECC/HANH to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B). For individuals with criminal convictions identified in Section 3-III.B., ECC/HANH will base its decision on whether, considering a totality of the circumstances, an applicant poses a significant risk to the safety and well-being of the community.

In the event ECC/HANH 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, ECC/HANH may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

ECC/HANH Policy

ECC/HANH 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 (as discussed further in section 3-III.F) 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

ECC/HANH 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.

When providing an individualized determination of an applicant during the process of "further review," ECC/HANH will consider the following, should the applicant choose to provide them:

- Letters or comments from a probation/parole officer;
- Letters or comments from a case worker, counselor, or therapist;
- Certificates of treatment completion as relevant to the conduct underlying the conviction(s) (e.g., batterers' intervention, sex offender treatment, drug or alcohol treatment, cognitive behavioral therapy);
- Letter or comments from family members or others who know the applicant well;
- Document from a community organization with which the applicant has been engaged;
- Letter or comments from employers or others who know the applicant well;
- Certificate of completion of a training program;
- Proof of employment;
- Other relevant documents;
- Statement from the applicant, either written or oral

Applicants may be represented by counsel during the process of "further review" and may present written or oral evidence.

In the event that an applicant does not choose to engage in in-person "further review", ECC/HANH will make a determination absent any additional information.

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

ECC/HANH Policy

Should ECC/HANH's screening process reveal that an applicant's household includes an individual subject to state lifetime sex offender registration, ECC/HANH will offer the family the opportunity to remove the ineligible household member from the household as a condition of receiving assistance.

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

For other criminal activity, ECC/HANH will deny admission to the family.

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

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

ECC/HANH Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, ECC/HANH will determine whether the behavior is related to the disability. If so, upon the family's request, ECC/HANH will determine whether alternative measures are appropriate as a reasonable accommodation.

ECC/HANH will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

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

The Violence against Women Act of 2013 (VAWA) Housing Provisions of the Violence Against Women Act (VAWA) Reauthorization Act of 2022, and HUD regulations at 24 CFR 5.2005(b) prohibit ECC/HANH from denying admission to an otherwise qualified applicant on the basis that they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Definitions of key terms and general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are provided in section 16-VII of this ACOP.

Notification

VAWA 2013 and 2022 expanded requirements to include the obligation for ECC/HANH to provide a notice of VAWA rights and the form HUD-50066 at the time any applicant is denied.

ECC/HANH Policy

ECC/HANH 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) that would warrant denial under ECC/HANH's policies. Therefore, if ECC/HANH makes a determination to deny admission to an

applicant family, ECC/HANH will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-50066. ECC/HANH will request in writing that an applicant wishing to claim this protection notify ECC/HANH within 10 business days.

Victim Documentation [24 CFR 5.2007]

ECC/HANH Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, ECC/HANH will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

ECC/HANH Policy

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 public 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.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

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

If ECC/HANH 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 ECC/HANH 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)].

ECC/HANH Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, ECC/HANH will notify the family in writing of the proposed

denial and will provide the applicant and the subject of record the opportunity to review a copy of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact ECC/HANH to dispute the information within that 10 day period, ECC/HANH will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

 - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) is manifested before the individual attains age 22;
 - (iii) is likely to continue indefinitely;
 - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
 - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
- (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides ECC/HANH with the information needed to determine the family's eligibility. HUD requires ECC/HANH to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, ECC/HANH must select families from the waiting list in accordance with HUD requirements and ECC/HANH policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and the Annual Plan.

ECC/HANH is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or ECC/HANH that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that ECC/HANH comply with all equal opportunity requirements, and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13] (see chapter 2).

This chapter describes ECC/HANH policies for accepting applications, managing the waiting list and selecting families from the waiting list. Policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise ECC/HANH's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how ECC/HANH will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how ECC/HANH's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process ECC/HANH will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide ECC/HANH in selecting families from the waiting list as units become available. It also specifies how interviews will be used to ensure that ECC/HANH has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part contains policies guiding ECC/HANH's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement on the waiting list. Included is ECC/HANH's obligation to ensure accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program when the LIPH waiting list for a specific community based or site-based waiting list is open.

HUD permits ECC/HANH to determine the format and content of LIPH applications, as well as how such applications will be made available to interested families and how applications will be accepted by ECC/HANH. ECC/HANH must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of ECC/HANH's application.

ECC/HANH Policy

ECC/HANH will maintain four (4) community waiting lists for the LIPH program.

- Family
- Elderly/Disabled
- Scattered Site (External Applicants)
- Accessible (UFAS/ADA compliant)
 - This list includes access to all Accessible (ADA compliant) units in ECC/HANH's portfolio, including LIHTC and 3rd party sites

When opening the waiting list, ECC/HANH will publicly announce the accepting of applications (see Section 4-II-C).

Families may apply for the wait list through the ECC/HANH Applicant portal at <https://ecc.myhousing.com>. The applicant may request to pick up an application form at the agency's offices or to have the application mailed to them. Application forms can also be obtained at the ECC/HANH website at www.elmcitycommunities.org or United Way's 211 Info line at <http://www.cthcvp.org>.

A family may request to pick up an application form at the agency offices or to have the application mailed to them as a reasonable accommodation.

All applications received via mail will be date and time stamped. Mailed applications will be added to the waitlist based on the date and time that they are stamped as received.

Only one application will be accepted per family; duplicate applications will be discarded.

Applications received after the published deadline date will be rejected.

Completed applications must be submitted via the Wait List portal. Applications must be complete in order to be accepted by the ECC/HANH for processing.

The Applicant Portal does not allow incomplete applications to be submitted through the portal. If a pre-application submitted in any way other than the portal is incomplete, the ECC/HANH will not accept the application but will instead notify the applicant by mail or email, if applicable, that the application is incomplete and has been denied.

An applicant whose application has been denied for not meeting the published application criteria will be provided with the opportunity to appeal ECC/HANH's decision that the application did not meet the published application criteria within 10 business days of the notice of application denial.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

ECC/HANH must take a variety of steps to ensure that the pre-application process is accessible to those people who might have difficulty complying with the standard ECC/HANH pre-application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). ECC/HANH must provide reasonable accommodation for the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or ECC/HANH must provide an alternate approach that provides full access to the application process.

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

ECC/HANH must provide reasonable accommodation as needed for persons with disabilities to make the pre-application process fully accessible. The facility where pre-applications are accepted and the pre-application process must be fully accessible, or ECC/HANH must provide an alternate approach that provides equal access to the program (see chapter 2).

Limited English Proficiency

ECC/HANH is required to take reasonable steps to ensure meaningful access to our programs and activities by persons with limited English proficiency [24 CFR 1] (see chapter 2).

4-I.D. PLACEMENT ON THE WAITING LIST

Ineligible for Placement on the Waiting List

ECC/HANH Policy

The Applicant Portal does not allow incomplete applications to be submitted. If an application is incomplete, the applicant will not be able to submit the application until the application is completed with all required information. If a pre-application submitted in any way other than the portal is incomplete, ECC/HANH will not accept the application but will instead notify the applicant by mail or email, if applicable, that the application is incomplete and give an opportunity to complete the application.

Applicants will not be screened for ineligibility at the pre-application stage. Screening for ineligibility will occur at the time of tenant selection at the full application stage.

Eligible for Placement on the Waiting List

ECC/HANH Policy

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

ECC/HANH will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5).

Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to ECC/HANH standards and local codes). However, in these cases, the family must agree not to request a transfer for one year after admission, unless they have a change in family size or composition.

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

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

ECC/HANH must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening 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 assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how ECC/HANH may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

ECC/HANH will administer its waiting list as required by 24 CFR Part 5, Part 945 and Part 960, Subparts A and B. The waiting list will be maintained in accordance with the following guidelines:

- The application will be a permanent file.
- Applications equal in preference will be maintained by date and time sequence.
- All applicants must meet applicable income eligibility requirements as established by HUD.

ECC/HANH's public housing waiting list must be organized in such a manner to allow ECC/HANH to accurately identify and select families in the proper order, according to its admissions policies.

ECC/HANH Policy

The waiting list will contain the following information for each applicant listed:

Entity ID number

Applicant Name and social security number of head of household

Date of Birth

Applicant Address

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Household type (family, elderly, disabled)

Qualification for any Admission preference, if any

Race and ethnicity of the head of household

Gender

The specific community-based site(s) selected

Date and time of application or application

ECC/HANH may adopt one community-wide waiting list or site-based waiting lists, as long as the list(s) is consistent with all applicable civil rights and fair housing laws and regulations and public housing program requirements. [24 CFR 903.7(b)(2)]

ECC/HANH may also merge its LIPH waiting list with its waiting list(s) for admission to another assisted housing program, including a federal or local program. For example, ECC/HANH can merge its HCV waiting list with its project-based voucher program, moderate rehabilitation program and/or public housing waiting list. When admitting an applicant family, admission for each federal program is subject to the federal regulations for that program. (HUD Public Housing Occupancy Guidebook)

ECC/HANH Policy

ECC/HANH will maintain the following community-wide waiting lists for its developments:

- Elderly/Disabled
- Family
- Scattered Site development (External applicants)
- Accessible units (UFAS/ADA compliant)
 - This list includes access to all Accessible (ADA compliant) units in ECC/HANH's portfolio, including LIHTC and 3rd party sites

ECC/HANH will also maintain waiting lists for any special programs.

Within the list, ECC/HANH will designate subparts to easily identify who should be offered the next available unit (i.e., mixed populations, general occupancy, unit size, and accessible units).

ECC/HANH may also merge the public housing waiting list with the waiting list for another program that ECC/HANH operates.

ECC/HANH 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 ECC/HANH standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the ECC/HANH operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

ECC/HANH must manage its community based and site-based waiting lists in a manner that is consistent with the ECC/HANH's activities to affirmatively further fair housing, such as marketing to groups least likely to apply for public housing.

ECC/HANH must have a system for regular review of the results of its community based and site-based waiting list operations to examine any changes in the racial and ethnic makeup of each site through steps described below.

- Each year, as part of its Annual Plan preparation, ECC/HANH must assess any changes in the racial and ethnic make-up of sites with site-based waiting lists, based on data that has been determined to be accurate by ECC/HANH's Independent Public Accountant.
- At least every three years ECC/HANH must use independent testers, or some other method approved by HUD to ensure that applicants are not treated differently based upon their race or ethnicity, and that no patterns or practices of discrimination exist; and
- ECC/HANH must make changes in its site-based waiting list system, as needed, based on the data and methods above to affirmatively further fair housing.

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

When ECC/HANH opens its waiting list, the notification process must comply with HUD's fair housing requirements which includes adopting suitable means to ensure that the notice reaches eligible individuals with disabilities (24 CFR § 8.6). ECC/HANH must ensure effective communication with persons with disabilities in all notifications and communications.

ECC/HANH Policy

Any public notice announcing the community based or site-based waiting list opening and application procedure inform applicants of the following:

- date, time, method, and place applications can be obtained and submitted;
- how blank applications may be obtained (e.g., from what addresses, community sites, and websites);
- all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email or Applicant portal);
- a point of contact who can answer questions;
- any limitations on who may apply; and
- any other information the applicant may need to successfully submit the application.

ECC/HANH will announce the opening of the waiting list at least ten (10) business days before applications are first accepted. This will allow for some lead time to share the information broadly and allow people to prepare their applications.

Closing the Waiting List

ECC/HANH is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. ECC/HANH may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

ECC/HANH Policy

ECC/HANH may close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 to 48 months for the most current applicants. Where ECC/HANH has particular preferences or other criteria that require a specific category of family, ECC/HANH may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time.

ECC/HANH Policy

ECC/HANH 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.

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

- Local city newspapers, i.e The New Haven Register
- Neighborhood newspapers, i.e La Voz, The Inner City
- **ECC/HANH** website, www.elmcitycommunities.org
- **ECC/HANH** social media sites, i.e Facebook, Instagram, other social media
- New Haven's Office on Disabilities
- State of Connecticut website

The notice will contain:

- The dates, times, and the wait list in which the families may apply.
- The system of waiting lists offered by **ECC/HANH**.
- The programs for which applications will be taken.
- A brief description of the program.
- A statement that Section 8 participants must submit a separate application if they want to apply for Public Housing.
- Limitations, if any, on who may apply.
- The date the application intake will be suspended.

The notices will be made in an accessible format and provided as requested in accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) regulations. **ECC/HANH** will furnish appropriate auxiliary aids and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access the notices.

Notices will be made available in accessible formats for individuals with limited English proficiency, in accordance with HUD's Limited English Proficiency Guidance and 72 Fed. Reg. 2732.

Notices will provide potential applicants with information that includes;

- **ECC/HANH** 's address and telephone number,
- how to submit an application,
- information on eligibility requirements,
- a point of contact who can answer questions,
- any limitations on who may apply, and
- any other information the applicant may need to successfully submit the application.

ECC/HANH Policy

If an applicant is assigned one of the preferences below, they will be added to the applicable community-based waiting list.

Note: This is not a preference hierarchy but a list of applicable preferences.

- **Displaced by Government Action**

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following:

- a. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA).
- b. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons. i.e. Fire Dept, LCI
- c. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

- **Reasonable Accommodation**

Reasonable Accommodation for disability issues under the Fair Housing Act.

- **Non-Public Housing Over-Income Family (HOTMA Provision)**

An over-income (OI) family who has remained in the unit and is paying the alternative non-public housing rent and who have again become income eligible. A family who has vacated the unit is not eligible for this preference.

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

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

ECC/HANH outreach efforts must comply with fair housing requirements. This includes:

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

ECC/HANH outreach efforts must be designed to inform qualified families about the availability of units under the program.

ECC/HANH Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

ECC/HANH Policy

While the family is on the waiting list, the family must inform ECC/HANH of changes in family size or composition, preference status, or contact information, including current residence, mailing address, email address and phone number.

The changes must be submitted in writing via the ECC/HANH applicant portal or **via** in person, by mail or by electronic methods such as email. 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.

This may occur when applicants on the waiting list, who did not qualify for any preference when they initially applied, experience a change in circumstances that later qualifies them for a preference. The reverse may also occur.

If preference status changes, applicants retain their original date and time of application or application number. If ECC/HANH determines that the applicant does not now qualify for a preference, they will be moved up the waiting list in accordance with their preference(s) and their date and time of application/application number and will be informed in writing of how the change in status has affected their position on the waiting list.

4-II.F. UPDATING THE WAITING LIST

HUD requires ECC/HANH to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The primary goal in purging a waiting list is to obtain current information on interested applicants and to remove applicants who are no longer interested in participating in the LIPH program.

Also purging the waiting lists prevents delays in leasing activities.

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation (see Chapter 2).

ECC/HANH Policy

The waiting list will be updated as needed, at least annually, to ensure that all applicant information is current and timely.

ECC/HANH will consider the following factors when deciding to purge/update the waiting list. and may decide to purge individual community-based Waiting List at a given time.

- The number of applicants expected to be selected within a reasonable time, i.e 12-24 months
- Identify families who are no longer interested or eligible to participate in the LIPH program

To purge the waiting list, ECC/HANH may send purge letter notifications via the Applicant Portal, electronic or 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 LIPH program.

This purge letter will be sent to the last electronic or mailing address that ECC/HANH has on record for the family. The purge letter 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.

Applicants must verify and update all the information needed for placement on the waiting list, such as address, phone number, household composition, income, and email address if applicable. The applicant must indicate that they wish to remain on the specific waiting list or if they wish to be removed.

The family's response must be in writing and may be delivered in person or by applicant portal or electronic or first-class mail, Responses should be postmarked or received by ECC/HANH no later than 15 business days from the date of ECC/HANH's letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office marked undeliverable or with no forwarding address or if the electronic communication is returned as undeliverable, the applicant will be removed from the waiting list without further notice. A copy of the letter, with the envelope, shall be maintained in the file with a note indicating the date and reason for removing the applicant from the Waiting List.

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

When a family is removed from the waiting list during the purge process for failure to respond, no informal hearing will be offered.

Such failures to act on the part of the applicant prevent ECC/HANH from making an eligibility determination; therefore, no informal hearing is required.

If a family is purged from the waiting list for failure to respond, ECC/HANH may reinstate the family if the lack of response was due to ECC/HANH error, or to circumstances beyond the family's control to include but not limited to, hospitalization, delayed mail delivery, or other reasonable accommodation circumstances.

Due to the length of the waiting list, it may not be cost effective to purge the entire waiting list at one time. ECC/HANH will have the discretion to purge a portion of the waiting list in order to have current information on those applicant families that may be likely to reach the top of the waiting list in the next 12 months.

ECC/HANH may decide to conduct a wait list purge with in-house staff or contract out the service to complete the function.

Removal from the Waiting List

ECC/HANH Policy

ECC/HANH will remove an applicant from the waiting list upon request from the applicant family. Such requests must be submitted in writing. In such cases no informal hearing is required.

If ECC/HANH determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because ECC/HANH has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application.

The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding ECC/HANH's decision (see Chapter 14) [24 CFR 960.208(a)].

A family may also be removed from the waiting list if the family fails to respond to the ECC/HANH's written invitation to attend an eligibility appointment or request for information.

ECC/HANH must reinstate an applicant family to its former position on the waiting list if the family was removed from the waiting list due to the family's failure to respond to ECC/HANH's request for information or updates and that failure was related to a family member's disability or was on the basis or as a direct result of domestic violence, dating violence, sexual assault, or stalking, including an adverse factor resulting from such abuse (24 CFR part 100, 24 CFR part 8; 28 CFR part 35).

PART III: TENANT SELECTION

4-III.A. OVERVIEW

ECC/HANH must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. ECC/HANH must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. ECC/HANH must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by ECC/HANH and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

ECC/HANH must maintain a clear record of all information required to verify that the family is selected from the waiting list according to ECC/HANH's selection policies [24 CFR 960.206(e)(2)]. ECC/HANH's policies must be posted any place where ECC/HANH receives applications. ECC/HANH must provide a copy of its tenant selection policies upon request to any applicant or tenant. ECC/HANH may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

ECC/HANH Policy

ECC/HANH will provide copies of tenant selection policies free of charge, upon request.

4-III.B. SELECTION METHOD

Local Preferences [24 CFR 960.206]

ECC/HANH is permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits ECC/HANH to establish other local preferences, at its discretion. Any local preferences established must be consistent with the ECC/HANH plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

ECC/HANH Policy

Families will be selected from the waiting list based on the priority of preferences. 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 ECC/HANH.

When selecting applicants from the waiting list, ECC/HANH will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists.

ECC/HANH will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration (or income mixing) and income targeting will also be considered in accordance with HUD requirements and ECC/HANH policy.

ECC/HANH will use the following local ranking preference system for admission into the LIPH program:

1) Displaced by Government Action

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following Tiers:

a) Tier I: Displaced by Government Action, In-house redevelopment
Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months, and including from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA)

b) Tier II: Displaced by Government Action, I.e., Local Natural Disaster or Building condemnation
Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons. i.e. Fire Dept, Livable City Initiatives (LCI)

c) Tier III: Displaced by Government Action, as defined by US Department of Housing
Displacement is defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

2) Reasonable Accommodation

Reasonable Accommodation for disability issues under the Fair Housing Act.

3) Local Preference based on Income Targeting 24 CFR 960.202.

Applicants will be grouped as follows:

a) Tier I: Families with incomes between 0% and 30% of area median income (this group **must** constitute at least 40% of all admissions in any year). This preference is required by Federal law.

b) Tier II: Families with incomes from 31% to 50% of area median income (the target for this group is 30% of all admissions in any year).

c) **Tier III:** Families with incomes from 51% to 80% of area median income (the target for this group is 30% of all admissions in any year).

Within income Tiers, applications are sorted by wait list position number (date and time of application).

4) Non-Public Housing Over-Income Family (HOTMA provision)

An over-income (OI) family who has remained in the unit and is now paying the alternative non-public housing rent and who have again become income eligible. A family who has vacated the unit is not eligible for this preference.

ECC/HANH has designated housing and/or waiting lists.

Designated Housing

- a. Elderly/Disabled (Mixed Population) - Developments designated for Elderly and Disabled families:¹ Elderly families and disabled families receive equal preference.
- b. Family Developments – Developments designated for work able families (non-elderly/disabled).
- c. ECC/HANH’s Self-Sufficiency Scattered Sites – Sites consisting of small developments and scattered single and multi-family homes are designated self-sufficiency housing, with eligibility targeted to Tier III applicants and transfers. These sites are designated for families between 51% to 80% AMI.
- d. Accessible Housing – ECC/HANH maintains a percentage of units in its portfolio that are UFAS-compliant (i.e., wheelchair accessible, mobility-impaired accessible units, hearing-impaired accessibility, sight-impaired accessible units, etc.). Priority for these units shall be given to families with one or more members who require such features. Applicants may apply to the Accessible Housing waiting list as well as to the general waiting list.
- e. Supportive Housing Matching Program - ECC/HANH is authorized under it’s Moving to Work status to develop and adopt a voluntary program for its properties that matches housing with health, social services and/or economic development programs tailored to each resident’s opportunity to become self-sufficient. In carrying out this program, a certain number of sites are designated a specific number of units for applicants, and a certain number of sites are designated a specific number of units for residents. Priority of units designated under this program will be given to eligible ECC/HANH residents and eligible applicants referred by supportive service agencies pursuant to an agreement with ECC/HANH to provide such supportive services. Applicants

¹ Buildings or portions of buildings designated for elderly persons and persons with disabilities. The definition of an elderly family is one in which the head, spouse or cohead is 62 or older. The definition of a disabled family is one in which the head, spouse or cohead is a person with disabilities.

must apply to the site-based Supportive Housing waiting list for these designated sites.

- f. Community Re-entry & Community Reunification Program – ECC/HANH was authorized under its Moving to Work Annual Plan to develop and implement a program to increase housing choice and support family self-sufficiency.

Under the Community Reentry program, ECC/HANH partners with the City of New Haven to house individuals/families who have reentered society after completing a prison sentence. These individual/families receive services from the City Department and ECC/HANH provides the housing. ECC/HANH will allow individuals to be added to the current ECC/HANH household under the Family Reunification program. Certain criteria of the criminal background check may be waived with the exception of the mandatory HUD denials.

Ten percent (10%) of the new admissions each year will be allocated to applicants on Reentry waitlist. Residents under the family reunification program do not count toward the number of units allocated to reentry each year as they are individuals being added to existing LIPH households. Additionally, under family reunification, all new admissions to households under the family reunification program will be referred to the team at the partner agency, the City of New Haven.

A preference does not guarantee admission to the program. Preferences are used to establish eligibility for placement on the Community Re-Entry housing waiting list. Every applicant must meet the ECC/HANH's eligibility and Selection Criteria as defined in this policy.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during ECC/HANH's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, ECC/HANH may skip non-ELI families on the waiting list in order to select an ELI family.

ECC/HANH Policy

ECC/HANH's Tiered preference system described in this Section, above, ensures compliance with HUD's income targeting requirement.

Organization of ECC/HANH's Site-Based Waiting Lists

If ECC/HANH will use site-based waiting lists (SBWLs), there are five conditions that ECC/HANH must implement:

- 1) Accurately, completely, and timely submit tenant characteristic data to HUD;

- 2) Provide full disclosure to each applicant of any option available concerning the selection of a development in which to reside – including basic information, such as location, occupancy, number of accessible units, amenities, transportation resources, and anticipated waiting time;
- 3) Must ensure the adoption of SBWLs would not violate any court order or settlement agreement, or be inconsistent with a pending HUD complaint;
- 4) Must take reasonable measures to ensure that adoption of SBWLs is consistent with affirmatively furthering fair housing, such as marketing; and
- 5) Must review the SBWL policy for consistency with civil rights laws and certifications by
 - (a) reviewing changes in racial, ethnic or disability-related tenant characteristics,
 - (b) using independent testers every three years ensuring non-discriminatory implementation of the SBWL policy, as well as a pattern and practice of discrimination,
 - (c) taking any steps to remedy problems that surface during the review, and
 - (d) taking steps necessary to affirmatively further fair housing (24 CFR § 903.7(b)(2)).

ECC/HANH Policy

ECC/HANH maintains a system of community-based waiting lists. Applications are accepted via the Wait List Application web portal, at ECC/HANH's central office at 360 Orange Street and at the Property Management offices.

Every reasonable action will be taken by ECC/HANH to assure that applicants can make informed choices regarding the developments in which they wish to reside. ECC/HANH will disclose information to applicants regarding the location of available sites, housing type, number, and size of units, including accessible units.

ECC/HANH will also include basic information relative to amenities such as day care, security, transportation, training programs, and an estimate of the period of time the applicant will likely have to wait to be admitted to units of different types.

ECC/HANH maintains a separate community-based waiting lists for applicants for the following:

Elderly/Disabled Developments

Robert T. Wolfe

George Crawford Manor

An elderly/disabled development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or ECC/HANH at some point after its inception obtained

HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102].

Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age.

Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

ECC/HANH must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. ECC/HANH may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, ECC/HANH must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. ECC/HANH may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Family Developments

Westville Manor

Essex Townhouses

A family development is a public housing development that was reserved for families who are considered nonelderly/disabled.

Scattered Site Developments (General Occupancy) (For Tier III Transfers and Applicants)

Scattered sites are ECC/HANH designated self-sufficiency units and are available for Tier III transfer residents and applicants, e.g., families at 51% to 80% of AMI. Scattered sites are located throughout the jurisdiction ECC/HANH serves.

Transfer policy for scattered sites residents is found in Chapter 12, Transfers.

Supportive Services for Persons and Families Approved for Such Services by ECC/HANH Designated Supportive Services Agencies (for Applicants)

The site-based supportive housing waiting lists are open to applicants who have indicated a preference for and who qualify for the supportive services associated with that waiting list. Applicants may demonstrate their eligibility by providing a standard form, "Preference Form for ECC/HANH-Assisted Supportive Housing Programs," signed by both the applicant and the service provider or its authorized representative. A preference does not guarantee admission to the program. Preferences are used to establish eligibility for placement on a supportive housing waiting list. Every applicant must meet ECC/HANH's eligibility and Selection Criteria as defined in this policy.

All applicants must be able to meet any property-specific admissions requirements at the time of admission.

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

ECC/HANH's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of ECC/HANH's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

ECC/HANH's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements:

- developments operated by ECC/HANH with fewer than 100 public housing units
- mixed population or developments designated specifically for elderly or disabled families
- developments operated by ECC/HANH with only one general occupancy development
- developments approved for demolition or for conversion to tenant-based public housing
- developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)]

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

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

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

ECC/HANH Policy

ECC/HANH will determine the average income of all families in all general occupancy (family) developments on a periodic basis.

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

ECC/HANH Policy

ECC/HANH will determine the average income of all families residing in each general occupancy (family) development (not adjusting for unit size) on a periodic basis.

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

Step 4. ECC/HANH 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, ECC/HANH must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

ECC/HANH'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 ECC/HANH in consultation with the residents and the community through the annual plan process to be responsive to local needs and ECC/HANH strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under ECC/HANH's deconcentration policy. ECC/HANH must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under ECC/HANH's deconcentration policy [24 CFR 903.2(c)(4)].

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

ECC/HANH Policy

If, at annual review, there are found to be development(s) with average income above or below the EIR, and where the income profile for a site based family development above or below the EIR is not explained or justified in the ECC/HANH MTW Plan, ECC/HANH shall list these covered developments in the ECC/HANH Annual Plan and shall develop a policy for deconcentration of poverty and income mixing in applicable developments. ECC/HANH's policies for implementing deconcentration may include:

Targeting investment and capital improvements toward covered developments below the EIR to encourage applicant families whose income is above the EIR to accept units in those developments.

Offering incentives to families with incomes above the EIR willing to move into a development with average income below the EIR and/or to families with incomes

below the EIR willing to move into a development with average income above the EIR. These incentives are described in the MTW Annual Plan.

Deconcentration Compliance

If, at annual review, the average incomes at all family developments are within the Established Income Range, ECC/HANH will be considered to be in compliance with the deconcentration requirement.

Promotion of Integration

Beyond the basic requirement of nondiscrimination, ECC/HANH shall affirmatively further fair housing to reduce racial and national origin concentrations. ECC/HANH shall not require any specific income or racial quotas for any development or developments.

ECC/HANH shall not assign families 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.

Order of Selection [24 CFR 960.206(e)]

ECC/HANH's system of preferences may select families either according to the date and time of application or by a random selection process.

ECC/HANH Policy

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 ECC/HANH.

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

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and ECC/HANH policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, ECC/HANH must notify the family.

ECC/HANH Policy

ECC/HANH will notify the family by first class mail, or email if applicable, when it is selected from the waiting list. ECC/HANH may also call the family and follow up with a letter that must be filed.

The notice will inform the family of the following:

Date, time, and location of the scheduled briefing 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 ECC/HANH with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents ECC/HANH from making an eligibility determination; therefore, no informal hearing will be offered.

Applicants may be verified for eligibility without a unit offer. Verifying applicants for eligibility within 90 days of reaching the top of the waiting list assists in ensuring that applicants can be housed swiftly when housing units become available.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that ECC/HANH obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if ECC/HANH determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by ECC/HANH [Notice PIH 2012-10].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

ECC/HANH Policy

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

All adult family members are required to attend the interview. ECC/HANH may waive this requirement on a case-by-case basis for students attending school out of state and/or members for whom attendance would present a hardship. Verification of information pertaining to adult members of the household who are not present at the interview will not begin until signed release forms are returned to ECC/HANH.

All adults who did not attend the original eligibility briefing, and requirement to attend has not been waived by ECC/HANH, will then be required to attend an interview within 10 business days of the originally scheduled eligibility briefing to review all provided information and to certify as to the accuracy and completeness of the information.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation within 10 business days, the appointment will be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, ECC/HANH will allow the family to retain its place on the waiting list for 90 days.

If all household members have not disclosed their SSNs by the next time a unit becomes available, ECC/HANH will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, ECC/HANH will proceed with the interview.

ECC/HANH typically keeps some waiting lists continuously open for certain specific categories, e.g.,

- Displaced Persons
- Victims of Domestic Violence
- Elderly-Only sites
- Elderly/Disabled sites
- Accessible units
- four- and five-bedroom units

If ECC/HANH determines the family applying for a targeted waiting list is not eligible for the category, the interview will not proceed, and the family will be denied. However, the applicant will be invited to apply when the waiting list is open in any category for which the family appears to be eligible.

If ECC/HANH determines the family is not eligible for a preference claimed, but the family is still eligible to be on the waiting list, 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, ECC/HANH will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status).

If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. A 10-day extension will be granted if the

family can demonstrate inability to receive documentation prior to the scheduled interview, or hardship. Further extensions may be granted on a case-by-case basis by ECC/HANH operations management. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

Interviews will be conducted in English. ECC/HANH will provide competent oral interpretation, free of charge, upon request, to Limited English proficient (LEP) applicants.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

To ensure effective communication with persons with disabilities in the interview process, ECC/HANH will furnish appropriate auxiliary aids and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access and participate in the program.

ECC/HANH will provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, accessible online formats, assistive listening devices, and sign language interpreters.

When ECC/HANH denies eligibility due to failure to supply information needed to determine eligibility, a notice of denial will be issued in accordance with policies contained in Chapter 3, informing the applicant of the right to an informal hearing.

If the family fails to attend the eligibility/briefing interview, ECC/HANH will make one additional attempt to schedule the family for an eligibility briefing interview. If the family is unable to attend a scheduled interview, the family should contact ECC/HANH in advance of the interview to schedule a new appointment, and the first eligibility/briefing interview will not count as a missed appointment.

Applicants who fail to attend two scheduled interviews without ECC/HANH approval will be removed from the waiting based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested, and they will be removed from the waiting list. Such failure to act on the part of the applicant prevents ECC/HANH from making an eligibility determination; therefore, ECC/HANH will not offer an informal hearing.

When prohibited from conducting in-person interviews due to natural disaster or public/personal health reasons, ECC/HANH may consider a video or telephonic system option for interviews. ECC/HANH may consider a video or telephonic system for interviews for other reasons as well.

As always, reasonable accommodations must be provided for person with disabilities upon request. For example, for some people, a video interview may be a good way to provide a reasonable accommodation for someone with a mobility-related disability who cannot attend an in-person interview in an office.

In all circumstances, if a family does not attend a scheduled interview, ECC/HANH will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without ECC/HANH approval will be removed from the site-based waiting list based on the family's failure to supply information needed to determine eligibility, subject to reasonable accommodation for people with disabilities.

Such failure to act on the part of the applicant prevents ECC/HANH from making an eligibility determination; therefore, no informal hearing will be offered.

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

ECC/HANH must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including ECC/HANH suitability standards, ECC/HANH must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

ECC/HANH Policy

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

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

ECC/HANH Policy

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

If ECC/HANH 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 ECC/HANH can move to deny the application. See Section 3-III.G.

If assistance is denied, ECC/HANH must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act of 2013 and Violence against Women Act Reauthorization 2022.

PART 4-IV

VAWA TRANSFER WAITLIST PREFERENCE

4-IV.A. INTRODUCTION

The VAWA Final Rule states that PHAs may establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence.

24 CFR 960.206(b)(4)

ECC/HANH Policy

In support of The Violence Against Women Act, 42 U. S. C. 13701, ECC/HANH has implemented a preference for victims of domestic violence (VAWA) ECC/HANH's in-house transfer waitlists only.

4-IV.B. TRANSFERS FOR CURRENT ECC RESIDENTS APPROVED FOR VAWA PROTECTIONS TO ANOTHER ECC/HANH OWNED SITE

Current residents of properties owned and/or managed by ECC who experience new incident(s) of domestic violence may request a unit transfer as a protection.

The resident would submit a completed VAWA certification or Form 5383 for Emergency Transfer Request to ECC's Resident Compliance and Support Manager.

The submission must also include supporting documentation of incident(s) of domestic violence including certification from a federal, state, tribal, territorial or local police; or protective order; or a signed certification by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse.

To qualify for the VAWA preference an incident of domestic violence must have taken place no more than 90 calendar days prior to date of ECC/HANH's receipt of the VAWA application request for a transfer.

Resident families approved for protections will be added to ECC's LIPH transfer list. The resident families will be offered units in LIPH and RAD properties, and ECC owned properties managed by a 3rd party entity.

4-IV. C. HCV OPTION FOR RESIDENTS ON THE "LIPH" TRANSFER LIST WITH A VAWA PREFERENCE

ECC will offer resident families who experience new incidents of domestic violence and are on the LIPH transfer list with a VAWA preference the following option.

Each month, the Resident Compliance and Support Manager (RCSM) or designee will determine how many families have been on the “LIPH” Transfer wait list for more than 90 days. The Resident Compliance and Support Manager will then contact the HCV Manager or designee to determine if tenant-based vouchers (TBV) are available for said families.

When vouchers are available, the Resident Compliance and Support Manager will contact families from the LIPH transfer wait list who were on the list for more than 90 days and did not receive and accept a unit transfer offer and were not previously contacted for a housing voucher (using date of the approval for the VAWA preference).

These families will be invited to an informational session to discuss their choice of receiving a voucher or remaining on the transfer list awaiting a LIPH unit transfer offer.

The families will then indicate their preference in writing within 10 business days of the informational session by using the election form provided at the session. The offer to opt for a Housing Choice Voucher will only occur once for each family.

Those resident families choosing vouchers will be added to the HCV VAWA transfer list. Names will be provided to the HCV Dept. for briefing and voucher issuance.

The family will remain a LIPH family with no loss of rights until they have been offered a voucher, signed a lease and a HAP contract is executed by ECC/HANH and a property owner on behalf of the family.

If a family chooses a voucher but later opts to stay on the LIPH transfer list instead of using the voucher, the family will be able to do so.

However, the written notification by the family **must occur prior** to the lease signing with another property owner and execution of a Housing Assistance Contract by ECC/HANH HCV staff and property owner.

4-IV.D. INTERAGENCY RELOCATION AGREEMENT WITH COOPERATING PHAS

VAWA ADMISSIONS

ECC/HANH may have executed agreements with cooperating Connecticut PHAs to house each other’s residents who are victims of domestic violence. This would occur after the initial PHA has unsuccessfully exercised all efforts to safely relocate the family.

Families Referred to ECC

ECC/HANH will require a referring PHA, that has made several attempts to relocate a family who is current victim of domestic violence to ECC/HANH. ECC/HANH will require the

referring PHA to submit a statement that outlines what relocation attempts were made, including dates and outcomes.

Upon the receipt of a referral from the referring PHA, ECC/HANH will:

1. Add the referred applicant to the appropriate waiting lists with a VAWA preference. This preference will only apply if there is an agreement with another housing authority.
2. Offer a unit accordingly as the family reaches the top of the waiting list

ECC/HANH will advise the referring PHA and family of their status on the wait list and that they will be housed accordingly.

Once the family reaches the top of the ECC/HANH wait list, ECC/HANH will advise the cooperating PHA and the family, of the availability of a unit and will proceed to house the family accordingly.

ECC/HANH will follow the Eligibility Determination, Unit Offer and Lease Up policy and procedures.

When the unit is ready to be leased by the family, ECC/HANH and the referring PHA will coordinate an End of Participation recertification by the referring PHA and a New Admission recertification by ECC/HANH for PIC submission.

Each referred family will receive 1 unit offer from ECC/HANH unless mitigating circumstances exist.

ECC referrals to cooperating PHA

When an ECC/HANH resident family has experienced new incidents of domestic violence and ECC has made several unsuccessful attempts to relocate the family within the ECC/HANH portfolio, ECC/HANH will refer the family to the cooperating PHA for relocation. At the time of the referral, ECC/HANH will provide a statement of all efforts made to relocate the Family to a safe environment.

The cooperating PHA will house the ECC/HANH resident according to their policies and procedures and admission criteria.

Note: VAWA requirements and PHA policies including definitions, notification, documentation, and confidentiality can be found in chapter 16. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

ECC/HANH must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. ECC/HANH's waiting list and selection policies are contained in Chapter 4.

Together, Chapters 4 and 5 of this ACOP comprise ECC/HANH's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

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

Part II: Unit Offers. This part contains ECC/HANH's policies for making unit offers and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by ECC/HANH to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding.

Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors ECC/HANH will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

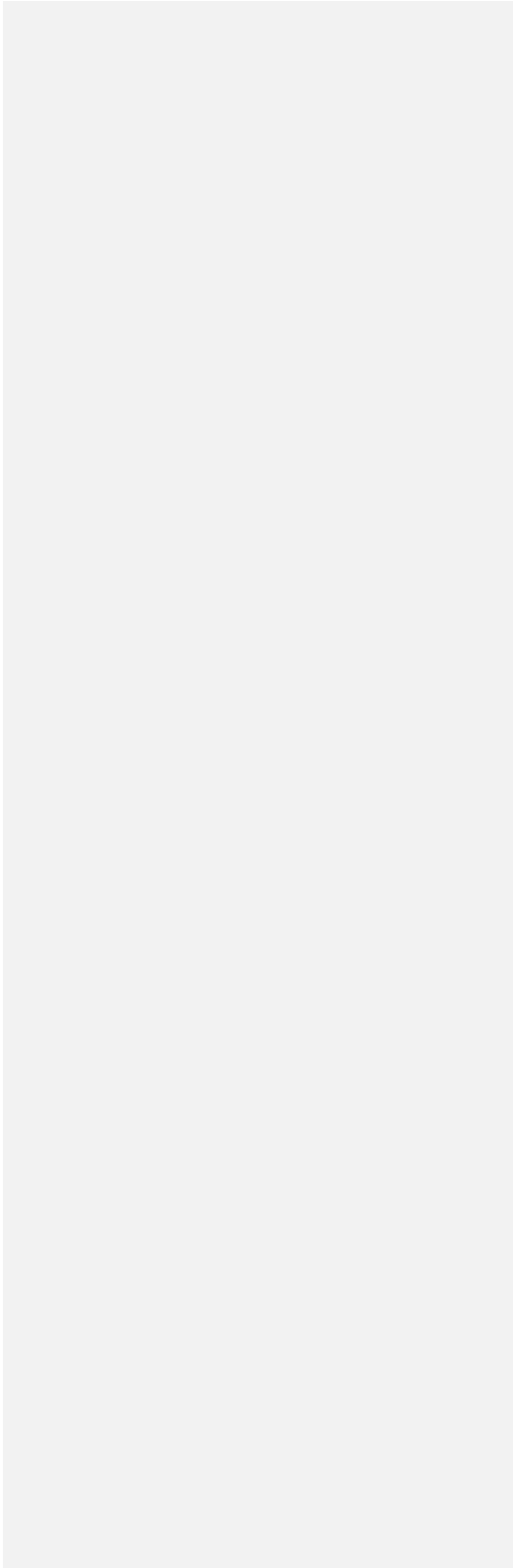
5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, ECC/HANH may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. ECC/HANH is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although ECC/HANH does determine the size of unit the family qualifies for under the occupancy standards, ECC/HANH does not determine who shares a bedroom/sleeping room.

ECC/HANH's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.



ECC/HANH Policy

ECC/HANH will use the same occupancy standards for each of its developments.

1. The following principles govern the size of unit for which a family will qualify. Generally, two people are expected to share each bedroom, except that units will be so assigned that:
 - a. Children age five and under may share a bedroom with any child or parent;
 - b. Two children between the ages of six and seventeen of the opposite sex do not share a bedroom, although they may do so at the request of the family;
 - c. Two children between the ages of six and seventeen of the same sex share a bedroom;
 - d. Adults (over age eighteen) of the same sex share a bedroom;
 - e. Adults (over age eighteen) of opposite sexes who are spouses or co-heads of household share a bedroom;
 - f. Adults (over age eighteen) of opposite sexes who are not spouses or co-heads of household do not share a bedroom although they may do so at the request of the family;
 - g. A single head of household parent shall not be required to share a bedroom with his/her child, although they may do so at the request of the family.
 - h. Exceptions to the largest permissible unit size may be made in case of reasonable accommodations for a person with disabilities.
 - i. An unborn child will be counted as a person in determining unit size. A single pregnant woman may be assigned to a one or two bedroom apartment.
 - j. In determining unit size, ECC/HANH will count a child who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school, so long as the family can document that the child will be living with the family in ECC/HANH unit.
 - k. Foster children will be included in determining unit size.
 - l. A live-in aide shall be assigned a bedroom. With the addition of a live-in aide, a maximum of one extra bedroom will be assigned. Single elderly or disabled residents with live-in aides shall be assigned one or two bedroom units, rather than efficiency units.
 - m. One bedroom units will be leased first to couples (or a family of two people).
2. The Local and State Housing Codes set the standard for the smallest apartment a family may be offered.¹
3. The largest apartment size that a family may be offered would be one bedroom per family member, considering family size and composition.

¹ Requirements per person as stated in CT State Building Code 8-37ee-304(c)

ECC/HANH will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

ECC/HANH Policy

ECC/HANH will consider granting exceptions to the occupancy standards at the family's request if ECC/HANH determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as 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 in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests ECC/HANH will consider the size and configuration of the unit. In no case will ECC/HANH grant an exception that is in violation of local and State 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 State law, and the family agrees not to request a transfer for a period of one year from the date of admission, unless they have a subsequent change in family size or composition.

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

Processing of Exceptions

ECC/HANH Policy

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

In the case of a request for exception as a reasonable accommodation, ECC/HANH will encourage the resident to make the request in writing using a reasonable accommodation request form. However, ECC/HANH 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 are readily apparent or otherwise known.

ECC/HANH will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

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

In filling an actual or expected vacancy, ECC/HANH must offer the dwelling unit to an applicant in the appropriate offer sequence. ECC/HANH will offer the unit until it is accepted. This section describes ECC/HANH'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 ECC/HANH's policies for offering units with accessibility features.

ECC/HANH Policy

ECC/HANH will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

ECC/HANH Policy

Applicants may choose up to three (3) **site-based waiting lists** on which they wish to be placed. No applicant will receive more than two (2) offers per site, unless the offer was refused for Good Cause. Once an applicant refuses two (2) offers without Good Cause, the applicant will be removed that particular site-based waiting list and will remain on the other site-based waiting lists.

(Good cause rejection – see Section 5-II.E Refusals of Units Offer)

Residents who are subject to an emergency transfer, administrative transfer or reasonable accommodation will be given only one offer. Failure to accept this offer for reason(s) other than good cause will be subject to a lease violation, removal from the transfer list or other ECC/HANH action. Offers made by telephone will be confirmed by letter.

ECC/HANH Policy

LIPH residents who have the following preferences will receive a unit offer before an applicant:

- Emergency
- Required Transfers
 - Demolition/Disposition- transfers for demolition, disposition, revitalization, or rehabilitation
 - Accessibility - transfers to make an accessible unit available for a disabled family

Commented [ER1]: Add supportive language

· transfers to comply with occupancy standards

- High Priority Transfer
 - Urgent
 - Reasonable Accommodation
 - VAWA

In ECC/HANH's Supportive Housing Matching program, a certain number of sites have designated a specific number of units for applicants, and a specific number of units for residents who are referred by supportive service agencies pursuant to an agreement with ECC/HANH.

Applicants must apply to the site-based Supportive Housing waiting list for these designated sites and priority will be given to eligible applicants and resident.

Under the Community Reentry program, ECC/HANH serves individuals who have reentered society after completing a prison sentence through Project Fresh Start and ten percent (10%) of the new admissions each year will be allocated to applicants on Reentry waitlist.

Excluding the priorities of the Supportive Housing Matching program, the Re Entry program and the transfers listed above, one out of every ten unit offers will be made to a current resident looking to transfer to another unit.

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

ECC/HANH Policy

The unit offer letter will inform the applicant of the unit being offered. The unit offer letter will include an appointment date and time, to meet with the Property Manager to view the unit. The letter will state that the applicant must accept or reject the unit offer within three calendar days after viewing the unit.

If the applicant does not accept the unit offer within the 3 calendar day time limit, ECC/HANH will consider the offer rejected.

Lease-up effective date will be within two weeks of unit acceptance. Extension of move-in date is subject to approval by ECC/HANH. A maximum of a one-week extension will be granted, ensuring that lease-up will take place no more than three weeks after unit acceptance, provided that unit is ready.

5-II.D. MAKING NEW ADMISSION UNIT OFFERS

ECC/HANH Policy

Unit offers for new admission will be made in the following order:

1. Offers shall be made in accordance with the Preferences established in Chapter 4.
2. ECC/HANH maintains site-based waiting lists and designated housing and will select applicants for a limited number of set aside units who meet the designated housing priority.
 - a. Family (General Occupancy) Development
 - b. Elderly Designated Developments
 - c. Elderly/Disabled Designated Developments
 - d. Accessible Housing - Families requiring UFAS compliant units will receive priority for admission to ECC/HANH's UFAS compliant units.
 - e. Supportive Housing
 - f. Community Re-entry

5-II.E. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

ECC/HANH Policy

Applicants may refuse to accept a unit offer for "good cause."

Good cause includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to ECC/HANH's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to ECC/HANH's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, 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 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.

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.

ECC/HANH will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

ECC/HANH's Policy

When an applicant rejects the final unit offer without good cause, ECC/HANH 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 hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply when ECC/HANH opens the waiting list.

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

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

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

- First, to a current resident of another unit of the same development, or other public housing development under ECC/HANH'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 ECC/HANH may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

ECC/HANH Policy

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

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

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

5-II.G. RESIDENTS WHO ARE TEMPORARILY RELOCATED AS PART OF THE OF THE RAD CONVERSION PROCESS:

As provided under Section 7.5 of PIH Notice 2016-17, ECC-HANH may use public housing as a temporary relocation resource if approved by HUD. It should be noted that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract for the unit being converted under RAD, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

Chapter 6

INCOME AND RENT DETERMINATIONS

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

INTRODUCTION

A family's annual income is used to determine their income eligibility for the Public Housing program and is also used to calculate the amount of the family's rent payment. ECC/HANH will use the policies and methods described in this chapter to ensure that only income-eligible families receive assistance and that no family pays more or less rent than is required under the regulations.

ECC/HANH Policy

As ECC/HANH is a Moving-to-Work Agency, HUD allows ECC/HANH to simplify the income and rent determination policies and processes for the standard public housing program.

This chapter describes HUD regulations and ECC/HANH policies related to these topics in three parts as follows:

Part I: Annual Income. ECC/HANH policies for calculating annual income are found in Part I.

Part II: Monthly Income Tiered Rent and Total Tenant Payment (TTP). The family's annual income is compared to a Simplified Rent Table to determine the family's Monthly Income Tiered Rent (TTP). The Simplified Rent Table takes into consideration average adjustments that would be made to a family's annual income based on existing HUD regulations, resulting in the Total Tenant Payment (TTP). Families experiencing \$2,000 or more in allowable income deduction adjustments will then experience a reduction in their TTP.

Part III: Rent. Describes the application of applicable utility allowances for determining rent. Also included here are flat rents and the family's choice of rents.

ECC/HANH'S RENT SIMPLIFICATION

ECC/HANH's method of determining income and rent is a four-part process:

1. Calculate the family's Annual Income

With exceptions as clearly outlined in this Chapter within Part I: Annual Income, ECC/HANH follows HUD requirements for calculating a family's Annual Income.

Exceptions are:

- Excluding all earned income of an adult full-time student (other than the head-of-household, spouse or co-head), rather than excluding only that amount of earnings that exceeds \$480 per year;

- Excluding all adoption assistance payments received by a family, rather than excluding only that amount of adoption assistance payments that exceed \$480 per year;
- Excluding the incremental increase of earnings and benefits resulting from participation in a federal training program, rather than limiting such exclusion to the incremental increase of earnings and benefits resulting from a state or local training program for FSS participants;
- Specific additional changes for families enrolled in the Family Self-Sufficiency (FSS) programs;
- Not including income from assets in the calculation of annual income unless the market value of combined assets is \$50,000 or more.

These exceptions result in two positive outcomes:

- Reduces the amount of income included in applicable families' annual income; and
 - Eases the inherent administrative burden of calculating a family's annual income.
2. Determine the family's Monthly Income Tiered Rent (TTP) based on the family's annual income.

As presented in this Chapter within Part II: Monthly Income Tiered Rent and TTP, the family's annual income is compared to a Simplified Rent Table (Tiered Rent Chart) which utilizes income ranges in order to determine the family's Monthly Income Tiered Rent (TTP). The Simplified Rent Table takes into consideration average adjustments that would be made to a family's annual income based on existing HUD regulations.

If a family's annual income is less than \$2,500, the family's Monthly Income Tiered Rent (TTP) will be ECC/HANH's minimum rent of \$50. However, these families may apply for a minimum rent hardship exemption. If a minimum rent hardship exemption is granted, the family's TTP will be \$0.

3. Application of Exceptional Expenses, if applicable.

As further presented in this Chapter within Part II: Total Tenant Payment, families experiencing \$2,000 or more in allowable income deduction adjustments will experience a reduction in their TTP.

4. Calculating Family Rent.

Part III: Calculating Family Rent describes use of utility allowances, and the methodology for determining family rent.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6B-1)
- Annual Income Exclusions (Exhibit 6B-2)
- Treatment of Family Assets (Exhibit 6B-3)
- Earned Income Disallowance (Exhibit 6B-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6B-5)

Sections 6B-I.B and 6B-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purpose of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6B-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. 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)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations or policy are included.
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 by the regulations or policy, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	ECC/HANH Policy: All employment income is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations or policy, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

ECC/HANH Policy

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

Absent Students

ECC/HANH Policy

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 ECC/HANH indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

ECC/HANH Policy

If a child has been placed in foster care, ECC/HANH 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.

Absent Head, Spouse, or Cohead

ECC/HANH Policy

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

Individuals Confined for Medical Reasons

ECC/HANH Policy

ECC/HANH will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent.

If the family certifies that the family member is confined on a permanent basis, they may present, and ECC/HANH will consider, any additional documentation or evidence.

If the family member is expected to be temporarily absent for more than 180 calendar days, ECC/HANH may require reverification of the temporary absent status.

ECC/HANH's decision is subject to reasonable accommodation requirements.

Joint Custody of Children

ECC/HANH Policy

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

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

Caretakers for a Child

ECC/HANH Policy

The approval of a caretaker is at ECC/HANH's discretion and subject to the ECC/HANH's screening criteria. If neither a parent nor a designated guardian remains in a household, ECC/HANH 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 have elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases ECC/HANH will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

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

6-I.C. ANTICIPATING ANNUAL INCOME

ECC/HANH is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

ECC/HANH generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes ECC/HANH to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- ECC/HANH believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

ECC/HANH Policy

If ECC/HANH cannot anticipate annual income for a full 12-month period, ECC/HANH will average known sources of income that vary in order to calculate annual income.

If a family member is a seasonal employee, ECC/HANH will average the income across 12 months when annualizing.

Example 1: ECC/HANH is conducting Mr. Quinn's biennial reexamination. Mr. Quinn works in construction 8 months of the year, earning \$1,500 a month. He is paid cash. The remaining months he receives no income.

ECC/HANH will annualize his income: $\$1,500 \times 8 = \$12,000$ whether or not he is working at the time of his biennial reexamination.

No interim will be conducted if Mr. Quinn was working at the time of his biennial reexamination and then reports that income stopped due to this regular layoff. Nor will an interim be conducted when Mr. Quinn resumes work at this regular job.

Example 2: Ms. Marie works as a school bus driver 10 months out of the year earning \$15,000 from this employment. The remaining 2 months, she draws \$1,500 a month in unemployment benefits. ECC/HANH will calculate Ms. Marie's annual income to be \$18,000 ($\$15,000 + \$3,000 (\$1,500 \times 2)$).

No interim will be conducted when Ms. Marie starts or stops working.

Income from the previous year may be analyzed to determine the amount to anticipate when third party verification is not available or reliable.

If by averaging, an estimate can be made for those families whose income fluctuates from month-to-month, this estimate will be used so that housing payments will not change from month-to-month.

This method used depends on the regularity, source, and type of income.

ECC/HANH is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows ECC/HANH to use tenant-provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where ECC/HANH does not determine it is necessary to obtain additional third-party data.

ECC/HANH Policy

An EIV Report is required for all family members 18 years or older, to capture all public income sources. EIV Reports should be treated as confidential documents and handled according to internal privacy protocols.

The HOTMA final rule revises § 5.233(a)(2)(i) to clarify that the use of EIV is required only at annual reexaminations, and not at interim reexaminations. However, ECC/HANH may use EIV for interim reexaminations if desired.

Note: Per the ECC/HANH Annual MTW Plan, Initiative 3.1, Rent Simplification, ECC/HANH has authorization for biennial and triennial recertification cycles.

When EIV is obtained and the family does not dispute the EIV employer data, ECC/HANH will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, ECC/HANH will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

ECC/HANH will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If ECC/HANH determines additional information is needed.

In such cases, ECC/HANH will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how ECC/HANH annualized projected income.

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

Known Changes in Income

If ECC/HANH 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 \$10/hour will begin to receive \$14.00/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: $(\$10/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$14.00 \times 40 \text{ hours} \times 45 \text{ weeks})$.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

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.

ECC/HANH Policy

For persons who regularly receive bonuses or commissions, ECC/HANH will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, ECC/HANH will use the prior year amounts. In either case the family may provide, and ECC/HANH 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, ECC/HANH will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

ECC/HANH Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

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. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

ECC/HANH Policy

All earnings of each full-time student 18 years old or older (except for the head, spouse, or cohead) are excluded from annual income.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

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)
- Awards under the federal work-study program (20 U.S.C. 1087)
- 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)

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 ECC/HANH, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of ECC/HANH's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

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 [24 CFR 5.609(c)(8)(v)].

ECC/HANH Policy

ECC/HANH includes federal employment training programs under this rule along with state and local employment training programs for FSS Program participants only.

ECC/HANH 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].

ECC/HANH 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, ECC/HANH 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 ECC/HANH's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] 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.

ECC/HANH Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. 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.

ECC/HANH's Incremental Earnings Increase Exclusion for Family Self-Sufficiency Program Participants

ECC/HANH Policy

In addition to the federal and HUD required exclusions, ECC/HANH has implemented an agency exclusion for FSS program participants (those families enrolled in the FSS program through execution of a form HUD-52650).

ECC/HANH shall exclude from the determination of Annual Income 100 percent of any incremental earnings increase from wages or salaries earned by any family member during the first year that family member is enrolled in ECC/HANH's Family Self-Sufficiency Program; 75 percent exclusion for the second year the family member is enrolled in the FSS Program; 50 percent exclusion for the third year the family member is enrolled in the FSS Program; 25 percent exclusion for

the fourth year the family member is enrolled in the FSS Program; and no exclusion in the fifth year of enrollment or thereafter.

The total number of months that a family may receive the FSS earned income exclusion and the EID may not exceed 48 months.

The family member cannot receive the FSS earned income exclusion during the same period the family member is receiving the Earned Income Disallowance (EID) (see Section 6.I-E). The family member's FSS income exclusion begins at the completion of the EID, provided that the 48-month time period has not expired. See the following three examples:

Example 1: Ms. Jones, head of household, has never been employed. She enrolls in ECC/HANH's FSS program effective 4/1/2015. On 6/1/2015, she begins working, earning \$10,000 a year. On 6/1/18, Ms. Jones' earnings increase to \$12,000 a year.

Year 1: Ms. Jones qualifies for the full exclusion under the EID.

Year 2: Ms. Jones enters the phase-in period under the EID.

Example 2: Ms. Nieto, a 24-year-old daughter of the head of household, has been working part-time for 3 years, earning \$7,000 per year. She has already received the EID exclusion (the full exclusion for 12 consecutive months and the 50% phase-in exclusion for 12 consecutive months). She enrolls in ECC/HANH's FSS program effective 3/1/2015. On 7/1/2015, she receives a raise and is now earning \$12,000 a year.

Year 1: 100% of the incremental increase in earnings is excluded (\$5,000).

Year 2: 75% of the incremental increase is excluded (\$3,750).

Ms. Nieto has now received a combined 48 month benefit (2 years EID, 2 years FSS income exclusion) and her exclusion therefore ends.

Example 3: Mr. Chin, head of household, began working on 4/1/2014, earning \$12,000 per year. He qualified for the EID at that time. Mr. Chin enrolls in ECC/HANH's FSS program effective 5/1/2015. On 6/1/2015, he receives a raise and is now earning \$20,000 / year.

Year 1: (Beginning 5/1/2015) At the time Mr. Chin enrolled in ECC/HANH's FSS program, he was in the EID phase-in period. The phase-in period continues until 3/31/2016. On 4/1/2016, Mr. Chin will have 1 month left in his first year period of participating in FSS. For that month, Mr. Chin's annual income will be calculated excluding \$8,000 per year.

Year 2: (Beginning 5/1/2016) 75% of the incremental increase is excluded (\$6,000).

Year 3: (Beg 5/1/2017) 50% of the incremental increase in earnings is excluded (\$4,000) ENDING 3/31/2018 as Mr. Chin will have received 48 months of combined exclusions.

4/1/14 – 3/31/15 (12 mo. full EID exclusion) 4/1/15 – 3/31/16 (12 mo. partial EID exclusion) 4/1/16 – 4/31/16 (1 mo. full FSS exclusion) 5/1/16 – 4/31/17 (12 mo. 75% FSS exclusion) 5/1/17 – 3/31/18 (11 mo. 50% FSS exclusion).

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 5.617]

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6B-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already leased up in ECC/HANH's public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

ECC/HANH Policy

ECC/HANH defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant (as a baseline) throughout the period that he or she is participating in the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

ECC/HANH Policy

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

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between Public Housing and Section 8 assistance, or if there are breaks in assistance.

ECC/HANH Policy

During the 48-month eligibility period, ECC/HANH will not schedule or conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the maximum eligibility period).

6-I.F. 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” [24 CFR 5.609(b)(2)].

Business Expenses

Net income is “gross income less business expense” [HCV GB, p. 5-19].

ECC/HANH Policy

To determine business expenses that may be deducted from gross income, ECC/HANH 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.

Business Expansion

HUD regulations do not permit ECC/HANH to deduct from gross income expenses for business expansion.

ECC/HANH Policy

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

Capital Indebtedness

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

ECC/HANH Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require ECC/HANH 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.

ECC/HANH Policy

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

Co-owned Businesses

ECC/HANH Policy

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

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that ECC/HANH include in annual income the anticipated "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,

ECC/HANH 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

Exhibit 6B-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6B-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and ECC/HANH policies related to each type of asset.

General Policies

ECC/HANH Policy

ECC/HANH will not include income from assets unless the total market value of all assets for the family equals \$50,000 or more.

Income from Assets

ECC/HANH 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 ECC/HANH 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) ECC/HANH believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, ECC/HANH can take into consideration past rental income along with the prospects of obtaining a new tenant.

ECC/HANH Policy

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

Valuing Assets

The calculation of asset income sometimes requires ECC/HANH to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

ECC/HANH Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

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

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

ECC/HANH Policy

ECC/HANH will not include income from assets unless the total market value of all assets for the family equals \$50,000 or more. ECC/HANH will then 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 an average passbook savings rate as determined by ECC/HANH.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for ECC/HANH to establish a passbook rate within 0.75 percent of a national average.
- ECC/HANH must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

ECC/HANH Policy

ECC/HANH initially set the imputed asset passbook rate at 0%, within the national rate established by the Federal Deposit Insurance Corporation (FDIC).

ECC/HANH will review the passbook rate annually, in August of each year. The rate will not be adjusted unless the current ECC/HANH rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate. Changes to the passbook rate will take effect on October 1 following the August review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for ECC/HANH 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.

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 investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

ECC/HANH Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, ECC/HANH 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, ECC/HANH will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, ECC/HANH will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require ECC/HANH 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 the examination/reexamination, except as noted below.

Minimum Threshold

ECC/HANH may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

ECC/HANH Policy

ECC/HANH 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.

Separation or Divorce

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

ECC/HANH Policy

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

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

ECC/HANH Policy

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

Types of Assets

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.

ECC/HANH Policy

For families with a total market value of assets of less than \$50,000, only a self-certification is required to verify the value of assets.

In determining the value of a checking account, ECC/HANH will use current balance.

In determining the value of a savings account, ECC/HANH will use the current balance.

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

Investment Accounts Such as Stocks, Bonds, Saving 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.

ECC/HANH Policy

In determining the market value of an investment account, ECC/HANH 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), ECC/HANH will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

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 [HCV GB, p. 5-25 and PH, p. 121].

ECC/HANH Policy

In determining the equity, ECC/HANH 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.

ECC/HANH will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, ECC/HANH 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)]
- 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 6B-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]

ECC/HANH 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].

ECC/HANH Policy

For the purposes of calculating expenses to convert to cash for real property, ECC/HANH will use ten percent of the market value of the home.

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.

ECC/HANH Policy

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 ECC/HANH determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

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

Nonrevocable Trusts

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)]. (Periodic payments are covered in section 6B-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

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 PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

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 [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6B-I.H.) 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

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

ECC/HANH Policy

In determining the value of personal property held as an investment, ECC/HANH will use the family's estimate of the value. ECC/HANH 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 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)].

ECC/HANH Policy

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.

Life Insurance

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 [HCV GB 5-25]. 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.

6-I.H. 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.

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]

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. 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 [24 CFR 5.609(c)(14)].

ECC/HANH Policy

When a delayed-start payment is received and reported during the period in which ECC/HANH is processing a reexamination, ECC/HANH will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with ECC/HANH.

Treatment of Overpayment Deductions from Social Security Benefits

ECC/HANH must make a special calculation of annual income 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. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, ECC/HANH must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].

ECC/HANH Policy

ECC/HANH will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- 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 6B-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] 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 [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6B-I.H and the discussion of lump-sum receipts in section 6B-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

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

ECC/HANH must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6B-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, ECC/HANH must include in annual income “imputed” welfare income. ECC/HANH must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency

economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

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

Offsets

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

6-I.K. 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 tenant family.

Alimony and Child Support

ECC/HANH must count alimony or child support amounts awarded as part of a divorce or separation agreement.

ECC/HANH Policy

ECC/HANH will count court-awarded amounts for alimony and child support unless ECC/HANH 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 [HCV GB, pp. 5-23 and 5-47].

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.

If alimony or child support payments actually received are erratic, ECC/HANH will obtain and use as annual income the amount received for the most recent completed twelve months.

Regular Contributions or Gifts

ECC/HANH must count as income regular monetary and non-monetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

ECC/HANH Policy

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 ECC/HANH. For contributions that may vary from month to month (e.g., utility payments), ECC/HANH will include an average amount based upon past history.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

ECC/HANH Policy

Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included **in** annual income.

- 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)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]

ECC/HANH Policy

ECC/HANH excludes all amounts of adoption assistance payments.

- 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 5/20/14]. 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.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, 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 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)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

PART II: MONTHLY INCOME TIERED RENT AND TOTAL TENANT PAYMENT

INTRODUCTION

Overview

HUD regulations specify that a PHA must establish a minimum rent between \$0 and \$50. The term ‘minimum rent’ actually refers to the Total Tenant Payment (TTP).

ECC/HANH Policy

ECC/HANH has established a minimum rent (TTP) of \$50.

ECC/HANH has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6B-II.F.

The amount that a family pays for rent and utilities (the family share) will never be less than the family’s TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Calculating Final Total Tenant Payment

ECC/HANH Policy

Once the Annual Income for the family is determined, the TTP for the family shall be determined by locating the ‘rent’ for the appropriate income tier for the family on the Simplified Rent Schedule and selecting the rent (TTP) for the appropriate income tier.

The Simplified Rent Schedule may be found in Exhibit 6B-6, labeled ‘Monthly Income Tiered Rent’ on ECC/HANH’s internal worksheets.

If a family’s annual income is less than \$2,500, the family’s TTP will be ECC/HANH’s minimum rent of \$50. ECC/HANH has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6B-II.G.

6-II.A. EXCEPTIONAL EXPENSES

ECC/HANH Policy

Deductions under 24 CFR Part 5.611(a) shall be permitted only to the extent that the sum of anticipated deductions is expected to equal or exceed \$2,000 annually. Families with Exceptional Expenses that equal or exceed \$2,000 will receive a rent deduction. Families with Exceptional Expenses will receive a reduction in their Final Total Tenant Payment rental as set forth in the following table:

Exceptional Expenses Amount	Monthly Rent Reduction
\$2,000 - \$3,999	\$75
\$4,000 - \$5,999	\$125
\$6,000+	To Hardship Committee for rent deduction determination

That the amount of rent reduction is based on exceptional expense tiers allows ECC/HANH to move away being required to verify deductions to the dollar. Families need only to provide documentation sufficient to verify expenses within the range of the appropriate tier.

HUD's \$400 Elderly/Disabled allowance is not used in determining Exceptional Expenses.

For families with two or more dependents, an amount of \$960 will be automatically calculated in exceptional expenses, as the standard amount of this deduction has been factored into the Simplified Rent Table used to establish the TTP.

For each family with more than two dependents, \$480 per dependent will be included in exceptional expenses.

Allowable income deductions used to calculate Exceptional Expenses are as follows:

- (1) \$480 for dependents
- (2) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (3) Any reasonable child care expenses necessary to enable a member of the family to be employed, seek work, or to further his or her education.

This part covers policies related to these allowable deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

ECC/HANH Policy

Generally, ECC/HANH will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), ECC/HANH will estimate costs based on historical data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses ECC/HANH will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. ECC/HANH may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

ECC/HANH Policy

For families with two or more dependents, an amount of \$960 will be automatically calculated in exceptional expenses, as the standard amount of this deduction has been factored into the Simplified Rent Table used to establish the TTP.

For each family with more than two dependents, \$480 per dependent will be included in exceptional expenses.

6-II.C. MEDICAL EXPENSES 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 families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

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.”

ECC/HANH Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> non-prescription medicines even if recommended by a doctor	

Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

ECC/HANH Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, ECC/HANH will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.D. 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.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

ECC/HANH Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, ECC/HANH will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When ECC/HANH determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises ECC/HANH to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

ECC/HANH Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

ECC/HANH Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, ECC/HANH will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

ECC/HANH Policy

ECC/HANH determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, ECC/HANH will collect information from organizations that provide services and support to persons with disabilities. A family may present, and ECC/HANH will consider the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

ECC/HANH Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, ECC/HANH will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age 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.”

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

ECC/HANH Policy

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

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

Seeking Work

ECC/HANH Policy

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

Furthering Education

ECC/HANH Policy

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

Being Gainfully Employed

ECC/HANH Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the

person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

ECC/HANH 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].

ECC/HANH Policy

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

ECC/HANH Policy

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, ECC/HANH will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated.

Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

ECC/HANH Policy

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

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

6-II.F. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If ECC/HANH offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

ECC/HANH Policy

ECC/HANH has opted not to use permissive deductions.

6-II.G. MINIMUM RENT AND MINIMUM RENT HARDSHIP EXEMPTION

HUD regulations specify that PHAs may establish a minimum rent between \$0 and \$50.

ECC/HANH has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6B-II.I.

The amount that a family pays for rent and utilities will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Minimum Rent [24 CFR 5.630]

ECC/HANH Policy

Families with Annual Income below \$2,500 annually shall pay the minimum rent of \$50.00 per month.

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a hardship exemption from the minimum rent requirements.

All families placed on minimum rent must be informed in writing of the procedures for applying for a hardship exemption from the Minimum Rent Requirement and the ability to have minimum rent waived.

In order to fully notify families of their right to request a minimum rent hardship exemption, families will be provided with an Application for Exemption from Minimum Rent Form only when they become subject to the Minimum Rent requirement. The policy and procedures for requesting such hardship exemption will also be included in participant rent change notifications, Application for Exemption from Minimum Rent and all form documents related to the exemption process.

A family subjected to the minimum rent requirement will not be evicted for non-payment of rent.

ECC/HANH will notify families in all of the above documents that all families exempt from the minimum rent requirements will be referred to ECC/HANH's CED program in order to assist the family in moving towards self-sufficiency. Elderly and disabled individuals are not required to participate in the CED program.

6-II.H. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If ECC/HANH establishes a minimum rent greater than zero, ECC/HANH must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption.

ECC/HANH Policy

If ECC/HANH determines that a hardship exists, the family's TTP will be \$0.

HUD-Defined Financial Hardship

Financial hardship includes the following situations collectively, the "Criteria for Minimum Rent Exemption":

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

ECC/HANH Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

Prior to reestablishing the minimum rent, the family must be referred to the Hardship Committee for determination of continued minimum rent hardship exemption or resumption of the minimum rent.

- (2) The family would be evicted because it is unable to pay the minimum rent.

ECC/HANH Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

- (4) A death has occurred in the family.

ECC/HANH Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by ECC/HANH.

ECC/HANH Policy

Other circumstances determined by ECC/HANH to be reasons to waive the minimum rent requirement will be referred to the Hardship Committee. The Hardship Committee will make a determination on a case-by-case basis and notify the family within 10 business days.

Implementation of Hardship Exemption

ECC/HANH Policy

An application for Exemption from Minimum Rent may originate from either a ECC/HANH employee or the family.

ECC/HANH employees must complete and submit an Application for Exemption from Minimum Rent on behalf of a family whenever any evidence exists that the family falls into any one of the Criteria for Minimum Rent Exemption (as set forth above).

A family also has the right to request a hardship exemption from minimum rent. Such request must be in writing and must state the family circumstances that qualify the family for a hardship exemption.

Suspension of Requirement to Pay Minimum Rent

When a family requests a financial hardship exemption, ECC/HANH must suspend the minimum rent requirement beginning the first of the month following the family's request.

The family's assistance cannot be terminated for nonpayment of minimum rent for a period of 90 days upon receipt of the request for minimum rent hardship exemption.

Determination of Hardship – Hardship Review Committee

ECC/HANH may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

ECC/HANH Policy

When a family submits an application for a minimum rent hardship exemption, or ECC/HANH employee submits an application for a minimum rent hardship exemption on behalf of a family, ECC/HANH will suspend the minimum rent requirement commencing on the first day of the month following the date of the application for a period of 90 days and adjust the HAP accordingly.

The family's assistance cannot be terminated for nonpayment of minimum rent while the family's Application for Exemption from Minimum Rent is pending or during the 90-day period of suspension, whichever is longer.

All families who apply for such hardship exemption will be referred to the Community Economic Development (CED) program in order to assist the family in moving towards self-sufficiency. Elderly and disabled individuals will not be referred to CED.

When the minimum rent is suspended, the family's TTP becomes '\$0'.

ECC/HANH then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

ECC/HANH Policy

ECC/HANH defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

Except for elderly or disabled individuals, no tenant shall be exempt from the minimum rent requirement for more than 90 days during a one year period unless at least one adult family member enrolls and actively participates in ECC/HANH's CED program. The family member shall enroll in CED within 30 days from the date on the Application of Exemption from Minimum Rent. This does not apply if all family members are elderly or disabled.

No Financial Hardship

If ECC/HANH determines there is no financial hardship, ECC/HANH will reinstate the minimum rent and require the family to repay the amounts suspended.

ECC/HANH Policy

If the hardship is determined to be nonexistent, the family will be responsible for paying rent to ECC/HANH for any rent that was suspended while the family's Application for Exemption from Minimum Rent was pending. The minimum rent shall be reinstated retroactively to the initial date of the suspension. The family will be provided with the opportunity to enter into a reasonable repayment agreement with ECC/HANH for any amount due and owing to ECC/HANH.

For procedures pertaining to grievance hearing requests based upon ECC/HANH's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

Temporary Hardship

If ECC/HANH determines that a qualifying financial hardship is temporary, ECC/HANH must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay ECC/HANH the amounts suspended. HUD requires ECC/HANH to offer a reasonable repayment agreement, on terms and conditions established by ECC/HANH.

ECC/HANH also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon ECC/HANH's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

ECC/HANH Policy

ECC/HANH will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this ACOP.

Long-Term Hardship

If ECC/HANH determines that the financial hardship is long-term, ECC/HANH must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

ECC/HANH Policy

ECC/HANH may deny the family a long-term exemption from the minimum rent requirement if the family fails to attend the scheduled meetings with the Hardship Review Committee. ECC/HANH will provide each family one opportunity to reschedule the meeting. If the family fails to attend the scheduled meetings, ECC/HANH may deny the long-term exemption from the minimum rent requirement. The letter scheduling the meeting shall inform families that persons with disabilities are entitled to reasonable accommodation with regard to this requirement.

Residents will be notified that the resident must notify ECC/HANH within 10 days if the hardship ceases to exist because the resident has obtained a source of income sufficient to pay (at least) the minimum rent.

Termination of Long-Term Exemption

ECC/HANH Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

The hardship will also end when a family that is required to participate in the CED program fails to do so.

ECC/HANH may conduct periodic reviews of all long-term hardship exemptions to determine if the hardship continues to exist and, for non-elderly and non-disabled residents, whether the resident is complying with CED requirements.

If ECC/HANH determines that a family is no longer eligible for a long-term hardship exemption (because the hardship no longer exists or the non-elderly/non-disabled tenant has not complied with CED requirements), ECC/HANH shall notify the family of the proposed termination of the long-term hardship exemption, the effective date of the proposed termination, and the reason for such proposed termination. This letter shall be delivered to the resident by first class mail no later than thirty (30) days prior to the effective date of the proposed termination. Any resident who disagrees with the proposed termination may request a grievance in accordance with ECC/HANH's grievance procedures, a copy of which will be included in the notice of termination. In cases where an appeal is sought, no action shall be taken by ECC/HANH until the grievance process is completed.

The Executive Director/President may waive any or all of these requirements in cases where he/she determines that the hardship conditions are likely to be permanent.

PART III: CALCULATING RENT

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

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

TTP Formula [24 CFR 5.628]

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

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

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

ECC/HANH Policy

Per ECC/HANH's MTW Plan, ECC/HANH has implemented a Rent Simplification Plan and does not calculate the TTP by the statutory formula.

Welfare Rent [24 CFR 5.628]

ECC/HANH Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

ECC/HANH Policy

The minimum rent is \$50.

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits ECC/HANH to pay the reimbursement to the family or directly to the utility provider.

ECC/HANH Policy

ECC/HANH will make utility reimbursements to the family.

6-III.B. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

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

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, ECC/HANH 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 may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

ECC/HANH must review its schedule of utility allowances each year. Between annual reviews, ECC/HANH must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent (10%) or more from the rate on which such allowances were based. 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 in such revision became effective [PH Occ GB, p. 171].

The tenant rent calculations must reflect any changes in ECC/HANH's utility allowance schedule [24 CFR 960.253(c)(3)].

ECC/HANH Policy

Unless ECC/HANH is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations or bi/triennial reexamination after the allowance is adopted.

ECC/HANH will maintain documentation of annual reviews regardless of whether changes to allowances or allotments are made.

Tenants must be notified at least 60 days before changing the utility allowances/allotments and all residents must be allowed to submit comments regarding the changes at least 30 days before the proposed effective date.

When setting the utility allowance or allotment level, ECC/HANH have discretion to use one or more of the options below, or a methodology of their choosing. ECC/HANH must keep documentation of how the utility allowances/allotments are calculated.

Documentation must be available to residents upon request and does not need to be submitted to HUD unless requested.

1. **Engineering approach** – In this methodology, ECC/HANH will identify existing energy or water consuming equipment in the unit and calculates the expected consumption for all the equipment for energy-conservative households that occupy housing of similar size and type in the same locality.
2. **Average actual utility bills** – In this methodology, ECC/HANH will collect a sample set of resident-paid utility bills and averages the use and cost paid by the tenant over 12 months of bills from a minimum of three units for each unit type, when available.
3. **Average historical consumption** – In this methodology, ECC/HANH will review historical consumption as recorded in ECC/HANH-owned utility check meters. ECC/HANH may only include data from when the unit was occupied by a tenant and must exclude units vacant for any reason including repairs and renovations.
4. **Review local utility rates** – In this methodology, ECC/HANH will review the local utility company rates to identify the current and/ or expected utility rates. Most utility companies make this information available on their website. The tenant’s lease must identify which utilities ECC/HANH will supply, which utilities the tenant is responsible for paying, and which utility services may be subject to surcharges.

6-III.C. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

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

- (1) Subtract the TTP 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.
- (2) 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).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

ECC/HANH Policy

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

For policies related to the establishment of the public housing maximum rent see Chapter 16.

6-III.D. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, ECC/HANH must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. ECC/HANH must document that flat rents were offered to families under the methods used to determine flat rents for ECC/HANH.

ECC/HANH Policy

According to the FY2020 Annual MTW Plan, Initiative 3.1 – Rent Simplification

The Flat Rent option certification form will only be signed at time of biennial/triennial certification, however, families will have the opportunity to switch to the Flat rent once a year.

Annual notice must go out to families, but signatures will not be required except for at time of scheduled bi/tri certification. This change is in line with efforts to streamline the certification process; relieving staff of the additional burden and allowing families to benefit from the full extent of Rent Simplification as written.

ECC/HANH offer to a family of the choice between flat and income-based rent will be conducted upon admission and thereafter at “annual” anniversary date.

ECC/HANH will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

ECC/HANH must provide sufficient information for families to make an informed choice. This information must include ECC/HANH’s policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year ECC/HANH is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

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

ECC/HANH Policy

Upon determination by ECC/HANH that a financial hardship exists, ECC/HANH will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Households will have the option of changing from the Income-Tiered rent to flat rent at biennial or triennial reexamination. Households choosing flat rent will need to have their income verified once every two years for biennial reexamination and three years for triennial reexaminations.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by ECC/HANH to be appropriate

ECC/HANH Policy

ECC/HANH considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Phasing In Flat Rents [Notice PIH 2015-13]

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, ECC/HANH conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, ECC/HANH must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under ECC/HANH's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of \$500 per month. At their regular recertification, ECC/HANH has increased the flat rent for their unit size to \$700. ECC/HANH would conduct a flat rent impact analysis as follows:

$$\$500 \times 1.35 = \$675$$

Since ECC/HANH'S increased flat rent of \$700 would result in a rent increase of more than 35 percent, ECC/HANH would offer the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase was phased in. At their next regular reexamination, ECC/HANH will again multiply the family's current flat rent by 1.35 and compare the results to ECC/HANH's current flat rent.

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and phase-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents for Units Subject to Demolition

ECC/HANH recognizes that developments for which the Commissioners have approved demolition should not be considered to be of the same quality as non-subsidized units even if these private sector units are comparable to the public housing units.

A special form of Flat Rent will be available for developments that:

- Have Board of Commissioner authorization directing staff to submit a demolition application to HUD; or
- Have a demolition application that has been submitted to HUD and approved by the Special Application Center (SAC).

Households who reside at developments covered by this section of the ACOP will be given the choice of either using the Flat Rent for Units Subject to Demolition or using the Income Tiered rent. Households will be allowed to move from one form of rent to the other and back again (a "round trip") once each twelve-month period. ECC/HANH will make exceptions to this rule in the case of a family's financial hardship.

Households that elect to use the Flat Rent for Units Subject to Demolition will not be required to complete an annual recertification for three years from the effective date of the Flat Rent.

Households that elect to be subject to the Flat Rent for Units Subject to Demolition will be required to acknowledge that the development is to be demolished and that there is a formal

understanding that the household relocate when required by the ECC/HANH. The manner of relocation and the relocation options are subject to the requirements of the Uniform Relocation Act (URA).

Once a household relocates to a development or housing option that does not meet the threshold defined in this section of the ACOP, the household is not entitled to the Flat Rent for Units Subject to Demolition described herein, and the household rent either reverts to an income-based computation or to the general Flat Rent schedule applicable to the specific development. Households that take a Housing Choice Voucher subsidy are covered by the regulations and components of the ECC/HANH's Housing Choice Voucher Section 8 Administrative Plan and have no recourse to any form of Flat Rent.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
- (6) Welfare assistance payments.
 - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and
(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial

assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes:

(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the

¹ Text of 45 CFR 260.31 follows (next page).

costs of employee wages, benefits, supervision, and training);
(3) Supportive services such as child care and transportation provided to families who are employed;
(4) Refundable earned income tax credits;
(5) Contributions to, and distributions from, Individual Development Accounts;
(6) Services such as counseling, case management, peer support, child care

information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. 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 PHA's governing board. No resident may receive more than one such stipend during the same period of time;
- (v) Incremental earnings and benefits resulting to any family member 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. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) 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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) 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; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive—Disallowance of increase in annual income.

(a) *Definitions.* The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was

unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in

consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) *Disallowance of increase in annual income.*

(1) *Initial twelve month exclusion.* During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and phase-in.* During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month

period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) *Inapplicability to admission.* The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts.* As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

- (1) The PHA must advise the family that the savings account option is available;
- (2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;
- (3) Amounts deposited in a savings account may be withdrawn only for the purpose of:
 - (i) Purchasing a home;
 - (ii) Paying education costs of family members;
 - (iii) Moving out of public or assisted housing;or
 - (iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;
- (4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition,

during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

EXHIBIT 6-6: SIMPLIFIED RENT SCHEDULE

Income Range		TTP	Income Range		TTP
\$0	\$2,499	\$50	\$34,500	\$35,499	\$819
\$2,500	\$3,499	\$59	\$35,500	\$36,499	\$843
\$3,500	\$4,499	\$83	\$36,500	\$37,499	\$867
\$4,500	\$5,499	\$107	\$37,500	\$38,499	\$891
\$5,500	\$6,499	\$131	\$38,500	\$39,499	\$914
\$6,500	\$7,499	\$154	\$39,500	\$40,499	\$938
\$7,500	\$8,499	\$178	\$40,500	\$41,499	\$962
\$8,500	\$9,499	\$202	\$41,500	\$42,499	\$986
\$9,500	\$10,499	\$226	\$42,500	\$43,499	\$1,009
\$10,500	\$11,499	\$249	\$43,500	\$44,499	\$1,033
\$11,500	\$12,499	\$273	\$44,500	\$45,499	\$1,057
\$12,500	\$13,499	\$297	\$45,500	\$46,499	\$1,081
\$13,500	\$14,499	\$321	\$46,500	\$47,499	\$1,104
\$14,500	\$15,499	\$344	\$47,500	\$48,499	\$1,128
\$15,500	\$16,499	\$368	\$48,500	\$49,499	\$1,152
\$16,500	\$17,499	\$392	\$49,500	\$50,499	\$1,176
\$17,500	\$18,499	\$416	\$50,500	\$51,499	\$1,199
\$18,500	\$19,499	\$439	\$51,500	\$52,499	\$1,223
\$19,500	\$20,499	\$463	\$52,500	\$53,499	\$1,247
\$20,500	\$21,499	\$487	\$53,500	\$54,499	\$1,271
\$21,500	\$22,499	\$511	\$54,500	\$55,499	\$1,294
\$22,500	\$23,499	\$534	\$55,500	\$56,499	\$1,318
\$23,500	\$24,499	\$558	\$56,500	\$57,499	\$1,342
\$24,500	\$25,499	\$582	\$57,500	\$58,499	\$1,366
\$25,500	\$26,499	\$606	\$58,500	\$59,499	\$1,389
\$26,500	\$27,499	\$629	\$59,500	\$60,499	\$1,413
\$27,500	\$28,499	\$653	\$60,500	\$61,499	\$1,437
\$28,500	\$29,499	\$677	\$61,500	\$62,499	\$1,461
\$29,500	\$30,499	\$701	\$62,500	\$63,499	\$1,484
\$30,500	\$31,499	\$724	\$63,500	\$64,499	\$1,508
\$31,500	\$32,499	\$748	\$64,500	\$65,499	\$1,532
\$32,500	\$33,499	\$772	\$65,500	\$66,499	\$1,556
\$33,500	\$34,499	\$796			

Income Range		TTP	\$99,500	\$100,499	\$2,363
\$66,500	\$67,499	\$1,579	Income Range		TTP
\$67,500	\$68,499	\$1,603	\$100,500	\$101,499	\$2,387
\$68,500	\$69,499	\$1,627	\$101,500	\$102,499	\$2,411
\$69,500	\$70,499	\$1,651	\$102,500	\$103,499	\$2,434
\$70,500	\$71,499	\$1,674	\$103,500	\$104,499	\$2,458
\$71,500	\$72,499	\$1,698	\$104,500	\$105,499	\$2,482
\$72,500	\$73,499	\$1,722	\$105,500	\$106,499	\$2,506
\$73,500	\$74,499	\$1,746	\$106,500	\$107,499	\$2,529
\$74,500	\$75,499	\$1,769	\$107,500	\$108,499	\$2,553
\$75,500	\$76,499	\$1,793	\$108,500	\$109,499	\$2,577
\$76,500	\$77,499	\$1,817	\$109,500	\$110,499	\$2,601
\$77,500	\$78,499	\$1,841	\$110,500	\$111,499	\$2,624
\$78,500	\$79,499	\$1,864	\$111,500	\$112,499	\$2,648
\$79,500	\$80,499	\$1,888	\$112,500	\$113,499	\$2,672
\$80,500	\$81,499	\$1,912	\$113,500	\$114,499	\$2,696
\$81,500	\$82,499	\$1,936	\$114,500	\$115,499	\$2,719
\$82,500	\$83,499	\$1,959	\$115,500	\$116,499	\$2,743
\$83,500	\$84,499	\$1,983	\$116,500	\$117,499	\$2,767
\$84,500	\$85,499	\$2,007	\$117,500	\$118,499	\$2,791
\$85,500	\$86,499	\$2,031	\$118,500	\$119,499	\$2,814
\$86,500	\$87,499	\$2,054	\$119,500	\$120,499	\$2,838
\$87,500	\$88,499	\$2,078	\$120,500	\$121,499	\$2,862
\$88,500	\$89,499	\$2,102	\$121,500	\$122,499	\$2,886
\$89,500	\$90,499	\$2,126	\$122,500	\$123,499	\$2,909
\$90,500	\$91,499	\$2,149	\$123,500	\$124,499	\$2,933
\$91,500	\$92,499	\$2,173	\$124,500	\$125,499	\$2,957
\$92,500	\$93,499	\$2,197	\$125,500	\$126,499	\$2,981
\$93,500	\$94,499	\$2,221	\$126,500	\$127,499	\$3,004
\$94,500	\$95,499	\$2,244	\$127,500	\$128,499	\$3,028
\$95,500	\$96,499	\$2,268	\$128,500	\$129,499	\$3,052
\$96,500	\$97,499	\$2,292	\$129,500	\$130,499	\$3,076
\$97,500	\$98,499	\$2,316	\$130,500	\$131,499	\$3,099
\$98,500	\$99,499	\$2,339	\$131,500	\$132,499	\$3,123
			\$132,500	\$133,499	\$3,147

Income Range		TTP
\$133,500	\$134,499	\$3,171
\$134,500	\$135,499	\$3,194
\$135,500	\$136,499	\$3,218
\$136,500	\$137,499	\$3,242
\$137,500	\$138,499	\$3,266
\$138,500	\$139,499	\$3,289
\$139,500	\$140,499	\$3,313
\$140,500	\$141,499	\$3,337
\$141,500	\$142,499	\$3,361
\$142,500	\$143,499	\$3,384
\$143,500	\$144,499	\$3,408
\$144,500	\$145,499	\$3,432
\$145,500	\$146,499	\$3,456
\$146,500	\$147,499	\$3,479
\$147,500	\$148,499	\$3,503
\$148,500	\$149,499	\$3,527
\$149,500	\$150,499	\$3,551
\$150,500	\$151,499	\$3,574
\$151,500	\$152,499	\$3,598
\$152,500	\$153,499	\$3,622
\$153,500	\$154,499	\$3,646
\$154,500	\$155,499	\$3,669
\$155,500	\$156,499	\$3,693
\$156,500	\$157,499	\$3,717
\$157,500	\$158,499	\$3,741
\$158,500	\$159,499	\$3,764
\$159,500	\$160,499	\$3,788
\$160,500	\$161,499	\$3,812
\$161,500	\$162,499	\$3,836
\$162,500	\$163,499	\$3,859
\$163,500	\$164,499	\$3,883
\$164,500	\$165,499	\$3,907
\$165,500	\$166,499	\$3,931
\$166,500	\$167,499	\$3,954

Income Range		TTP
\$167,500	\$168,499	\$3,978
\$168,500	\$169,499	\$4,002
\$169,500	\$170,499	\$4,026
\$170,500	\$171,499	\$4,049
\$171,500	\$172,499	\$4,073
\$172,500	\$173,499	\$4,097
\$173,500	\$174,499	\$4,121
\$174,500	\$175,499	\$4,144
\$175,500	\$176,499	\$4,168
\$176,500	\$177,499	\$4,192
\$177,500	\$178,499	\$4,216
\$178,500	\$179,499	\$4,239
\$179,500	\$180,499	\$4,263
\$180,500	\$181,499	\$4,287
\$181,500	\$182,499	\$4,311
\$182,500	\$183,499	\$4,334
\$183,500	\$184,499	\$4,358
\$184,500	\$185,499	\$4,382
\$185,500	\$186,499	\$4,406
\$186,500	\$187,499	\$4,429
\$187,500	\$188,499	\$4,453
\$188,500	\$189,499	\$4,477
\$189,500	\$190,499	\$4,501
\$190,500	\$191,499	\$4,524
\$191,500	\$192,499	\$4,548
\$192,500	\$193,499	\$4,572
\$193,500	\$194,499	\$4,596
\$194,500	\$195,499	\$4,619
\$195,500	\$196,499	\$4,643
\$196,500	\$197,499	\$4,667
\$197,500	\$198,499	\$4,691
\$198,500	\$199,499	\$4,714
\$199,500	\$200,499	\$4,738
\$200,500	\$201,499	\$4,762

EXHIBIT 6-7: PUBLIC HOUSING PROGRAM RENT SIMPLIFICATION

INTRODUCTION

ECC/HANH believes there is a better way to administer essential housing programs, one that encourages long-term self-sufficiency for both the program participants as well as the agency.

Rent Simplification: Equity & Efficiency

The proposed system rewards families who increase their incomes, and provides them with more opportunities to save while easing ECC/HANH's burden of administering these housing programs.

Everyone Should Contribute

ECC/HANH believes that every family should contribute towards their housing. Under Rent Simplification, the criteria under which a family can claim zero income and not pay any rent are not changed. What will change is the amount of time families will be permitted to request an interim adjustment. The minimum rent will remain at \$50.00 per month.

Fiscal Equity for ECC/HANH/ELM CITY COMMUNITIES

Rent Simplification is forecast to be revenue-neutral. In other words, the implementation of Rent Simplification will not increase the amount of rental revenue to ECC/HANH.

Approvable Method

Rent Simplification allows all stakeholders to easily understand how tenant rents are determined, and armed with some basic income data, anticipate what future rents will be. This will allow families to easily plan for future expenses and savings.

Measurable Reduction in Administrative Time

By simplifying the rent determination and deduction procedures in Federal Public Housing, Rent Simplification makes the job of recertifying tenants significantly easier.

Transition to Avoid Hardships

ECC/HANH has devised a system that is not only revenue neutral for the organization, but will not result in any undue hardship to our families. There will be a transition period of one year from the current income based rent determination process to the new income tiered rent determination process. No family will have an increase in Total Tenant Payment (TTP) during the first year they are subject to the requirements of this Rent Simplification Policy. Please note that this hold harmless provision does not apply to increases in TTP that result from an

increase in family annual income above the amount earned in the reporting period immediately preceding the family being subject to Rent Simplification. No family shall be subject to an increase in TTP of greater than \$25.00 a month during the second year that the family is subject to the Rent Simplification Policy. The increase in TTP during the third year the family is subject to Rent Simplification shall not exceed \$50; \$75 a month during the fourth year; and \$100 a month above the monthly TTP in the year immediately following the implementation of Rent Simplification

Asset Exclusion

Asset exclusion is raised to \$50,000.00. Increasing the asset exclusion amount allows residents to accumulate more assets before they are calculated as income. Families will self-certify that they do not have assets in excess of \$50,000.00.

Earned Income Disallowance

The Federal Earned Income Disregard (EID) will continue to be implemented. The maximum amount of time a family can be enrolled in the Federal EID is 24 months. After the 24 months have been exhausted, the family may elect to participate in the Family Self Sufficiency (FSS) program for the remaining 24 months so long as any family member is enrolled in FSS. Both program s combined cannot exceed 48 months. When the family joins the FSS program 50% of incremental earnings are excluded for 12 additional months after the end of receiving EID for 24 months and 25% for another 12 months for a total for 48 months of income disallowance The optional income disregard provided under this paragraph is limited to lifetime eligibility of 48 months.

For families who do not receive the Federal EID, it may choose to enroll directly into the optional FSS Earned Income Disregard so long as any member of the household is enrolled in FSS Program. Incremental earnings from wages or salaries are excluded in the first 12 months; 75 percent in the second 12 months; 50% in the third 12 months; and 25% in the fourth 12 months. A family is limited to 48 months of eligibility for this optional EID. This will allow more families to enter and benefit from the program. In no event shall the family receive the FSS exclusion and the Federal EID during the same time period.

Family Self Sufficiency (FSS) Income Exclusion

The average income of our public housing residents is approximately \$15,000.00 per year. In order to promote long-term sustainable economic self-sufficiency of the residents, all families that enroll in the FSS program who are members of Very Low Income families will have all incremental earnings and benefits from any qualified Federal, State or Local employment training program training of a family member (including programs not affiliated with the local government) excluded from the determination of Annual Income so long as the family member is enrolled in ECC/HANH's FSS Program.

Additionally, any incremental earning by any family member while enrolled in the FFS Program will be excluded from the determination of Annual Income, 100% during the 1st year, 75% in 2nd

year, 50% in 3rd year, 25% in 4th year and 0% during the 5th year of FSS participation. In addition to regularly scheduled recertifications, the family member will have their rent re-determined at the conclusion of the FSS Program or termination from the FSS Program.

In addition to expanding the scope of the existing exclusion to include Federal and State programs, an optional exclusion will be provided to cover the incremental increases and wages and salaries so long as that family member is enrolled in the ECC/HANH FSS Program.

There is not a requirement that these increases in rental income must go into an escrow account. Families will be permitted to retain these additional earnings.

Other Exclusions

All adoption assistance payments will be excluded from income calculations under Section 5.609(c) (8) (11) as the \$480 dependent deduction is eliminated. All income earned by full-time college students will no longer be included in the determination since there will no longer be the \$480 dependent deduction to offset income.

Annualized Income Calculation

Prospective and past income may be used to calculate resident rents, especially for families with irregular or sporadic employment histories. For families with income of up to and including \$5,000.00 we will accept a self-certification. For families earning more than \$5,000.00 of wages and salaries we want pay stubs covering the most recent four weeks of employment or a W-2 or 1099 within 180 days of the effective date of recertification. We must complete EIV or other UIV as required by HUD.

Annual Reexaminations

Since 2008, under Rent Simplification, annual reexaminations will occur every two years for non-elderly households and every three years for elderly and/or disabled households. These changes will allow families who experience increases in income to retain all of their increased earnings between the biennial/triennial reexaminations. Note that families with individuals who are subject to the eight hour community services requirement will be reviewed annually for all household members exempt from having to meet the community services requirement. During the first year all families will be recertified. This process will be phased in over a three-year period.

Effective FY2015 (October 2014), ECC/HANH updated its definitions of elderly/disabled and work-able families. Under the policy change, an elderly/disabled family will be defined as one in which all adult members (excluding live-in attendants) are elderly and/or disabled. A work-able family will be one that doesn't meet the new elderly/disabled definition. If one adult family member is not elderly and/or disabled, the family will be considered a work-able family. Work-able households under the new definition will have reexaminations every two years

(biennial schedule) and elderly/disabled households will have annual reexaminations every three years (triennial schedule).

ECC/HANH believes this new definition more closely matches the spirit of a “work-able” family since all work-able families would have at least one work-able adult. Under the prior definition, an elderly/disabled family only needed a head, co-head, or spouse to be elderly or disabled which led to some families with work-able adults being categorized as elderly/disabled. This change will also give ECC/HANH the ability to better track earnings and employment for work-able families; and the better population division will give ECC/HANH the flexibility to implement work-able specific rent policy changes in the future if it so chooses.

Deductions for Exceptional Expenses

Excess resources are dedicated to verifying deductions for childcare, medical and disability allowances. Third party verifications of these amounts are difficult to accomplish and the agency more often than not relies upon second and first party verifications of these deductions. Obtaining verification data also places an undue burden on the resident. To simplify this process, ECC/HANH will eliminate standard deductions for these amounts for elderly, disabled and non-elderly households.

Households with exceptional expenses may request a rent reduction. This includes large families (with more than two (2) dependents). It also includes families with high medical expenses, disability assistance expenses, or childcare expenses.

The amount of expense is set in \$2,000.00 tiers. This allows to move away from verifying every last dollar. Tenants are not required to provide documentation of every dollar of expense; rather, tenants need only provide documentation sufficient to meet the appropriate tier.

The amount of monthly rent reduction is established at the mid-range of the tier.

Households with exceptional expenses will receive a direct reduction of the monthly rent. However, no tenant’s rent will be reduced below a rent of \$50.00 as a result.

Tiered Amount of Expenses	Monthly Rent Reduction
\$ 2,000 - \$ 3,999	\$ 75 (equivalent to \$3,000 deduction)
\$ 4,000 - \$ 5,999	\$ 125 (equivalent to \$5,000 deduction)
\$ 6,000 +	Hardship Review

Changes in Family Composition

Residents are still required to get permission from the Housing Manager and the Vice President of Operations to add anyone to a household and to report changes in family

composition. A family's rent is recalculated if the addition or subtraction of a household member results in an income change of \$200.00 per month or more, or that causes the family to move from one income tier to another. This increase in rent does not count as an interim reexamination, in the Optional Interim Reexamination Policy.

Mandatory Interim Reexaminations Policy

Residents must request an interim reexamination if any of the following conditions occur:

- Change in family composition that affects the bedroom size.
- The addition of a family member 18 years of age or older
- Change in family composition that causes the family to move from one income tier to another with a higher rent schedule.
- Addition of a live-in aid
- Income Increase following an interim rent reduction
- If ECC/HANH grants an exceptional deduction for any family and there is a subsequent change then the family must report that change to ECC/HANH.

Optional Interim Reexaminations Policy

Residents have the option to request three (3) interim reexaminations during every twelve (12) month period. Interims may be granted in the following instances:

- Decrease in family income that is expected to last 90 days or more if it will result in a change in the family's income tier (exclude seasonal workers; see below)
- Increase in Exceptional Expenses of at least \$2,000.00

Interim rents normally remain in place until the next scheduled biennial/triennial reexamination. If a family experiences an increase in income it is not necessary for the family to report this increase in income until the next scheduled certification date, except when the increase occurs after an interim decrease has been processed.

Households receiving a requested interim rent reduction must report any subsequent income increase to ECC/HANH within thirty (30) days of occurrence. Failure to report the change within thirty (30) days results in retroactive rent changes, and depending on the severity of the circumstances, lease termination.

Seasonal workers who are employed for a period of time less than 12 months annually will have their rent calculated over a 12-month period using the 9 or 10 months of income earned. During the months the worker is not actively working, the family will not be able to request a rent reduction as the rent has already been adjusted over a 12 month period.

Permanent loss of income (i.e., death of an income earner) results in a permanent, rather than interim, rent reduction. This decrease in rent does not count as an interim reexamination. Under

this circumstance, the family is not required to report a subsequent increase in income until the next scheduled certification.

Verification of Annual Income from Wages and Salaries and Assets

To reduce the administrative burden associated with the verification of income ECC/HANH will amend its Admission and Continued Occupancy (ACOP) to specify that:

- For earnings from wages and salaries where Annual Income for the prior period of up to and including \$5,000.00, self-certification from family is all that shall be required as verification of income.
- For earnings from and salaries of more than \$5,000.00 the most recent pay stubs for recent 4 weeks of employment, or W-2 or 1099 within 180 days of the anniversary date shall be required in addition to the self-certification, but only to the extent that verification of Annual Income is not available from a third party source of Upfront Income Verification.
- Self-certification of all sources of Annual Income shall be required in all cases.
- For families with total assets of \$50,000.00 or less a self-certification of said assets shall be required.

Income Tiered Rents Calculated within \$1,000 Bands

Rents are based on \$1,000.00 income bands starting at \$2,500.00. Using a band-based rent schedule allows the ECC/HANH and residents to move away from verifying every last dollar earned and deducted. (See Exhibit A)

At January 31, 2007, both the median and mode percentage of Total Tenant Payment (TTP) to annual income is 28.5 percent. That is, most families pay 28.5 percent of their family income (before utility allowance) as rent. Fifty two (52) percent of households pay 28 percent or more of annual income for TTP; six percent pay less than 10 percent; 13 percent pay between 10 and 20 percent; and 26 percent pay between 20 and 27 percent of income as TTP.

Rent will be set at 28.50 percent of income for income tiers of \$1000.00 starting at \$2,500.00. The rent will be calculated at the lower end of each tier. For example, for the \$2,500.00 to \$3,499.00 tier, the rent will be calculated at 28.50 percent of \$2,500.00. Families with incomes below \$2,500.00 will be charged the minimum rent of \$50.00. Families will be permitted to apply for a hardship if verifiable proof is provided that their total expenses exceed \$2,000.00

Minimum Rents and Flat Rents

Families with annual income below \$2,500.00 will pay a minimum rent of \$50.00. In no event shall any family pay less than 25 percent of its Annual Income for TTP.

All residents at a rent of \$50.00, except for the elderly and persons with disabilities, are referred to the Family Self Sufficiency (FSS) Program for job or benefit counseling. Families may still choose the existing Flat Rent option for public housing.

Zero Income Households

Families with Annual Income below \$2,500 annually shall pay the minimum rent of \$50.00 per month.

All families placed on minimum rent with the exception of elderly and disabled families will be referred to the Family Self Sufficiency Program.

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term hardship exemption from the minimum rent requirements.

All families placed on minimum rent must be informed in writing of the procedures for applying for a hardship exemption from the Minimum Rent Requirement and the ability to have minimum rent waived.

All families who apply for such hardship exemption, with the exception of elderly persons and persons with disabilities, will be referred to the Family Self Sufficiency Program in order to assist the family in moving towards self-sufficiency.

ECC/HANH will notify all families of their right to request a hardship exemption from the minimum rent requirements. Residents will be notified of their right to request a hardship exemption through the Application for Exemption from Minimum Rent, a copy of which will be provided to tenants at lease-up and at each recertification appointment and mailed to residents at each interim recertification. The policy and procedures for requesting such hardship exemption will also be included in tenant rent change notifications, the form lease agreement and all form documents related to the exemption process.

Criteria for Hardship Exemption From Minimum Rent Requirement

A family is automatically exempt from the minimum rent requirements for a 90-day period when the family's circumstances fall into any one of the following criteria:

1. When a family has lost eligibility or is awaiting eligibility determination from a Federal, State or local assistance program;
2. When the family would be evicted because it is unable to pay the minimum rent;
3. When the income of the family has decreased because of changed circumstances, including loss of employment;
4. When a death in the family has occurred; or
5. Other circumstances determined by ECC/HANH to be reasons to waive the minimum rent requirement (collectively, the "Criteria for Minimum Rent Exemption").

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term hardship exemption from the minimum rent requirement.

A temporary hardship exemption exists when none of the above criteria is expected to last for more than 90 days.

A long-term hardship exemption exists when at least one of the above criteria is expected to last for more than 90 days.

A family may only receive one hardship exemption from the minimum rent requirement during a twelve-month period, unless a tenant is elderly, disabled, or is enrolled in ECC/HANH's Family Self Sufficiency Program. The minimum rent requirement may be waived more than once during a twelve-month period if at least one adult member of the household enrolls in the Family Self Sufficiency Program (the "FSS Program"). Elderly and disabled families are not required to enroll in the FSS Program.

Once the Authority identifies a resident's need for a hardship exemption from the minimum rent requirement or the family requests such exemption, the minimum rent shall be suspended immediately for a period of 90 days.

Hardship Review Committee

All "Applications for Exemption from Minimum Rent" shall be forwarded to the Hardship Review Committee.

The Hardship Review Committee shall consist of the Executive Director/President or his/her designee, the Sr. Vice President of Operations or his/her designee, the Vice President or his/her designee, and the Director of Community and Economic Development or his/her designee. At the family's option, the Hardship Review Committee may include one (1) resident of ECC/HANH who is in good standing.

The Application for Exemption from Minimum Rent shall originate from the family or from an ECC/HANH employee whenever evidence exists that the family falls into any one of the Criteria for Minimum Rent Exemption.

When a resident submits an application or an ECC/HANH employee submits an application on behalf of a resident, ECC/HANH will suspend the minimum rent requirement commencing on the first of the month following the date of the application for a period of 90 days.

The resident cannot be evicted for nonpayment of minimum rent while resident's Application for Exemption from Minimum Rent is pending or during the 90 day period of suspension, whichever is longer.

The Hardship Review Committee shall send a letter to all resident families who have applied for hardship exemption from minimum rent stating:

- (a) that ECC/HANH has received an Application for Exemption from Minimum Rent,
- (b) that ECC/HANH will suspend the minimum rent requirement for 90 days effective as of the first of the next month and the effective dates of the 90-day suspension,
- (c) that there can be no eviction for non-payment of rent during the suspension period;
- (d) the date for a meeting with the resident to discuss the hardship exemption request, giving the resident family at least ten days advance notice of such meeting and informing the resident that he or she may have one opportunity to reschedule the meeting; and
- (e) with the exception of elderly and disabled families, the resident family has been referred to the FSS program and will not be able to receive a hardship exemption in excess of 90 days without enrolling in the program.

The Hardship Review Committee will review the circumstances surrounding the request and determine if the request is temporary, long term or nonexistent.

1. If the Committee determines that ***the hardship is of a temporary nature (the hardship is expected to last less than 90 days)***, at the end of the 90-day period, the resident's rent will be reinstated to the minimum rent retroactively to the initial date of suspension. The resident will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH.
2. If the Committee determines that the ***hardship is of a long-term nature (the hardship is expected to last more than 90 days)***, the tenant shall be exempt from the minimum rent requirement from the first of the month following the date of the application for exemption from the minimum rent until such time that the hardship no longer exists.

ECC/HANH may deny a resident a long-term exemption from the minimum rent requirement, if the resident fails to attend the scheduled meeting with the Hardship Review Committee. ECC/HANH will provide each resident one opportunity to reschedule the meeting. If the resident fails to attend the scheduled meetings, ECC/HANH may deny the long-term exemption from the minimum rent requirement. The letter scheduling the meeting shall inform residents that persons with disabilities are entitled to reasonable accommodation with regard to this requirement.

Except for Elderly or Disabled families, no tenant shall be exempt from the minimum rent requirement for more than 90 days during a one year period unless at least one member of the family who is 18 years of age or older enrolls and actively participates in ECC/HANH's FSS Program for job or benefit counseling. Such family member(s) shall enroll in the FSS Program within 30 days from the date of the Application for Exemption from Minimum Rent.

3. If the *hardship is determined to be non-existent*, the resident will be responsible for paying rent to ECC/HANH for any rent that was suspended while tenant's Application for Exemption from Minimum Rent was pending. The minimum rent shall be re-instated retroactively to the initial date of the suspension. The resident will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH.

Upon completion of the review process, the Hardship Review Committee shall render a written recommendation to the President, who shall then adopt or reject the recommendation and shall issue a written decision that states as follows:

1. If the hardship exemption is determined to be temporary:

- (a) that a temporary hardship exemption was granted;
- (b) the effective dates of the exemption;
- (c) the basis for the decision to grant a temporary hardship exemption, including that a long-term exemption was denied and the reason that such long-term exemption was denied; and
- (d) that the resident has a right to enter into a reasonable repayment agreement with ECC/HANH for the minimum rent that was suspended and is now owing to ECC/HANH.

2. If the hardship exemption is determined to be long-term:

- (a) that a long-term hardship exemption was granted;
- (b) whether the long-term exemption is permanent or subject to periodic review and, if subject to periodic review, when such review will take place;
- (c) that all non-elderly, non-disabled residents are required to comply with FSS requirements as a condition of the receipt of a long-term exemption; and
- (d) that the resident must notify ECC/HANH within 10 days if the hardship ceases to exist because the resident has obtained a source of income sufficient to pay (at least) the minimum rent.

3. If the hardship is determined to be non-existent:

- (a) that a hardship exemption was denied;
- (b) the reason for such determination; and
- (c) the terms and conditions on which the resident family must pay back the minimum rent that was suspended and is now owing to ECC/HANH.

All letters concerning Hardship Review Committee determinations shall state that any resident who disagrees with the decision may request a grievance in accordance with ECC/HANH grievance procedures, a copy of which will be included with the written decision. In cases where a grievance is sought, no action shall be taken by ECC/HANH until the grievance process is completed.

Mixed Families

For mixed families, where some households include members with citizenship or eligible immigration status as well as those without, rents are calculated using the simplification model; subsidy is then prorated using current methods.

Fraud Prevention

After two or more instances of job loss or income drop within ninety (90) days of a scheduled reexamination (based on current and prior reexamination history), ECC/HANH sets a rent based on the past year's W-2 or other information available for income verification. Households are advised that this is a potential fraud issue and that they have the right to grieve through the normal process to more fully explain the reasons for the pattern of income loss. ECC/HANH will set the rent after the Conference Panel review.

Households with two or more instances of job loss or income drop within ninety (90) days of a scheduled certification do not have access to the Hardship Review Committee.

Rent Simplification Implementation - Public Housing

Residents received notice of the new policy on July 1, 2007 and the policy was effective on January 1, 2008 for all reexaminations with an anniversary effective date on or after January 1, 2008 and for all new lease-ups and residents requesting interim reexaminations after January 1, 2008.

**Low Income Public Housing (LIPH) Program
Rent Simplification Rent Tier Schedule**

Rent Tier						
Income Range						
\$0	\$2,499	\$50		\$36,500	\$37,499	\$867
\$2,500	\$3,499	\$59		\$37,500	\$38,499	\$891
\$3,500	\$4,499	\$83		\$38,500	\$39,499	\$914
\$4,500	\$5,499	\$107		\$39,500	\$40,499	\$938
\$5,500	\$6,499	\$131		\$40,500	\$41,499	\$962
\$6,500	\$7,499	\$154		\$41,500	\$42,499	\$986
\$7,500	\$8,499	\$178		\$42,500	\$43,499	\$1,009
\$8,500	\$9,499	\$202		\$43,500	\$44,499	\$1,033
\$9,500	\$10,499	\$226		\$44,500	\$45,499	\$1,057
\$10,500	\$11,499	\$249		\$45,500	\$46,499	\$1,081
\$11,500	\$12,499	\$273		\$46,500	\$47,499	\$1,104
\$12,500	\$13,499	\$297		\$47,500	\$48,499	\$1,128
\$13,500	\$14,499	\$321		\$48,500	\$49,449	\$1,152
\$14,500	\$15,499	\$344		\$49,500	Above	\$1,176
\$15,500	\$16,499	\$368				
\$16,500	\$17,499	\$392				
\$17,500	\$18,499	\$416				
\$18,500	\$19,499	\$439				
\$19,500	\$20,499	\$463				
\$20,500	\$21,499	\$487				
\$21,500	\$22,499	\$511				
\$22,500	\$23,499	\$534				
\$23,500	\$24,499	\$558				
\$24,500	\$25,499	\$582				
\$25,500	\$26,499	\$606				
\$26,500	\$27,499	\$629				

\$27,500	\$28,499	\$653				
\$28,500	\$29,499	\$677				
\$29,500	\$30,499	\$701				
\$30,500	\$31,499	\$724				
\$31,500	\$32,499	\$748				
\$32,500	\$33,499	\$772				
\$33,500	\$34,499	\$796				
\$34,500	\$35,499	\$819				
\$35,500	\$36,499	\$843				

Hardship Waiver Policy and Guidelines

Families with Annual Income below \$2,500 annually shall pay the minimum rent of \$50.00 per month.

All families placed on minimum rent with the exception of elderly and disabled families will be referred to the Family Self Sufficiency Program.

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term hardship exemption from the minimum rent requirements.

All families placed on minimum rent must be informed in writing of the procedures for applying for a hardship exemption from the Minimum Rent Requirement and the ability to have minimum rent waived.

All families who apply for such hardship exemption, with the exception of elderly persons and persons with disabilities, will be referred to the Family Self Sufficiency Program in order to assist the family in moving towards self-sufficiency.

ECC/HANH will notify all families of their right to request a hardship exemption from the minimum rent requirements and in accordance with the provisions set forth herein. Residents will be notified of their right to request a hardship exemption through the Application for Exemption from Minimum Rent, a copy of which will be provided to tenants at lease-up and at each recertification appointment and mailed to residents at each interim recertification. The policy and procedures for requesting such hardship exemption will also be included in tenant rent change notifications, the form lease agreement and all form documents related to the exemption process.

1. Criteria for Hardship Exemption from Minimum Rent Requirement

A family is automatically exempt from the minimum rent requirements for a 90-day period when the family's circumstances fall into any one of the following criteria:

1. When a family has lost eligibility or is awaiting eligibility determination from a Federal, State or local assistance program;
2. When the family would be evicted because it is unable to pay the minimum rent;
3. When the income of the family has decreased because of changed circumstances, including loss of employment;
4. When a death in the family has occurred; or
5. Other circumstances determined by ECC/HANH to be reasons to waive the minimum rent requirement (collectively, the "Criteria for Minimum Rent Exemption").

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term hardship exemption from the minimum rent requirement.

A temporary hardship exemption exists when none of the above criteria is expected to last for more than 90 days.

A long-term hardship exemption exists when at least one of the above criteria is expected to last for more than 90 days.

A family may only receive one hardship exemption from the minimum rent requirement during a twelve month period, unless a tenant is elderly, disabled, or is enrolled in ECC/HANH's Family Self Sufficiency Program. The minimum rent requirement may be waived more than once during a twelve-month period if at least one adult member of the household enrolls in the Family Self Sufficiency Program (the "FSS Program"). Elderly and disabled families are not required to enroll in the FSS Program.

Once the Authority identifies a resident's need for a hardship exemption from the minimum rent requirement or the family requests such exemption, the minimum rent shall be suspended immediately for a period of 90 days.

2. Initiation of Hardship Exemption Review

An Application for Exemption from Minimum Rent may originate from either a ECC/HANH employee or the resident family.

ECC/HANH employees must complete and submit an Application for Exemption from Minimum Rent on behalf of a resident family whenever any evidence exists that the family falls into any one of the Criteria for Minimum Rent Exemption (as set forth above).

A resident family also has the right to request a hardship exemption from minimum rent. Such request must be in writing and must state the family circumstances that qualify the family for a hardship exemption.

3. Notification of the Right to a Hardship Exemption

ECC/HANH will notify all families of the ability to receive a hardship exemption from minimum rent and the procedures for applying for such a hardship exemption in the Application for Exemption from Minimum Rent, a copy of which will be provided to residents at lease up and at each recertification appointment or mailed to residents for interim recertifications.

ECC/HANH will also notify all families in writing of the ability to receive a hardship exemption from minimum rent and the procedures for applying for such a hardship exemption in the following documents: resident rent change notifications when monthly rent is set at the minimum rent, the form lease agreement and all form documents related to the hardship exemption process.

ECC/HANH will also notify all families in all of the above documents that all families that are exempt from the minimum rent requirement will be referred to the Family Self Sufficiency (FSS) Program in order to assist the family in moving toward self-sufficiency. Elderly and disabled families are not required to participate in the FSS program.

4. Hardship Review Committee

All “Applications for Exemption from Minimum Rent” shall be forwarded to the Hardship Review Committee.

The Hardship Review Committee shall consist of the Executive Director/President or his/her designee, the Sr. V.P. of Operations or his/her designee, the V.P of Housing Choice Voucher or his/her designee, and the Director of Community and Economic Development or his/her designee. At the family’s option, the Hardship Review Committee may include one (1) resident of ECC/HANH who is in good standing.

The Application for Exemption from Minimum Rent shall originate from the family or from a ECC/HANH employee whenever evidence exists that the family falls into any one of the Criteria for Minimum Rent Exemption.

When a resident submits an application or a ECC/HANH employee submits an application on behalf of a resident, ECC/HANH will suspend the minimum rent requirement commencing on the first of the month following the date of the application for a period of 90 days.

The resident cannot be evicted for nonpayment of minimum rent while resident’s Application for Exemption from Minimum Rent is pending or during the 90-day period of suspension, whichever is longer.

The Hardship Review Committee shall send a letter to all resident families who have applied for hardship exemption from minimum rent stating:

- (a) that ECC/HANH has received an Application for Exemption from Minimum Rent,

- (b) that ECC/HANH will suspend the minimum rent requirement for 90 days effective as of the first of the next month and the effective dates of the 90-day suspension,
- (c) that there can be no eviction for non-payment of rent during the suspension period;
- (d) the date for a meeting with the resident to discuss the hardship exemption request, giving the resident family at least ten days advance notice of such meeting and informing the resident that he or she may have one opportunity to reschedule the meeting; and
- (e) that, with the exception of elderly and disabled families, the resident family has been referred to the FSS program and will not be able to receive a hardship exemption in excess of 90 days without enrolling in the program.

The Hardship Review Committee will review the circumstances surrounding the request and determine if the request is temporary, long term or nonexistent.

1. If the Committee determines that ***the hardship is of a temporary nature (the hardship is expected to last less than 90 days)***, at the end of the 90-day period, the resident's rent will be reinstated to the minimum rent retroactively to the initial date of suspension. The resident will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH/ELM CITY COMMUNITIES.
2. If the Committee determines that the ***hardship is of a long-term nature (the hardship is expected to last more than 90 days)***, the tenant shall be exempt from the minimum rent requirement from the first of the month following the date of the application for exemption from the minimum rent until such time that the hardship no longer exists.

ECC/HANH may deny a resident a long-term exemption from the minimum rent requirement, if the resident fails to attend the scheduled meeting with the Hardship Review Committee. ECC/HANH will provide each resident one opportunity to reschedule the meeting. If the resident fails to attend the scheduled meetings, ECC/HANH may deny the long-term exemption from the minimum rent requirement. The letter scheduling the meeting shall inform residents that persons with disabilities are entitled to reasonable accommodation with regard to this requirement.

Except for Elderly or Disabled families, no tenant shall be exempt from the minimum rent requirement for more than 90 days during a one year period unless at least one member of the family who is 18 years of age or older enrolls and actively participates in ECC/HANH/ELM CITY COMMUNITIES's FSS Program for job or benefit counseling. Such family member(s) shall enroll in the FSS Program within 30 days from the date of the Application for Exemption from Minimum Rent.

3. If the *hardship is determined to be non-existent*, the resident will be responsible for paying rent to ECC/HANH for any rent that was suspended while tenant's Application for Exemption from Minimum Rent was pending. The minimum rent shall be re-instated retroactively to the initial date of the suspension. The resident will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH/ELM CITY COMMUNITIES.

Upon completion of the review process, the Hardship Review Committee shall render a written recommendation to the Executive Director/President, who shall then adopt or reject the recommendation and shall issue a written decision that states as follows:

4. **If the hardship exemption is determined to be temporary:**

- (a) That a temporary hardship exemption was granted;
- (b) the effective dates of the exemption;
- (c) the basis for the decision to grant a temporary hardship exemption, including that a long-term exemption was denied and the reason that such long-term exemption was denied; and
- (d) that the resident has a right to enter into a reasonable repayment agreement with ECC/HANH for the minimum rent that was suspended and is now owing to ECC/HANH/ELM CITY COMMUNITIES.

5. **If the hardship exemption is determined to be long-term:**

- (a) that a long-term hardship exemption was granted;
- (b) whether the long-term exemption is permanent or subject to periodic review and, if subject to periodic review, when such review will take place;
- (c) that all non-elderly, non-disabled residents are required to comply with FSS requirements as a condition of the receipt of a long-term exemption; and
- (d) that the resident must notify ECC/HANH within 10 days if the hardship ceases to exist because the resident has obtained a source of income enough to pay (at least) the minimum rent.

6. **If the hardship is determined to be non-existent:**

- (a) that a hardship exemption was denied;
- (b) the reason for such determination; and

- (c) the terms and conditions on which the resident family must pay back the minimum rent that was suspended and is now owing to ECC/HANH/ELM CITY COMMUNITIES.

All letters concerning Hardship Review Committee determinations shall state that any resident who disagrees with the decision may request a grievance in accordance with ECC/HANH/ELM CITY COMMUNITIES's grievance procedures, a copy of which will be included with the written decision. In cases where a grievance is sought, no action shall be taken by ECC/HANH until the grievance process is completed.

7. Termination of Long-Term Exemptions

ECC/HANH may conduct periodic reviews of all long-term hardship exemptions to determine if the hardship continues to exist and, for non-elderly and non-disabled residents, whether the resident is complying with FSS requirements.

If ECC/HANH determines that a family is no longer eligible for a long-term hardship exemption (because the hardship no longer exists or the non-elderly/non-disabled tenant has not complied with FSS requirements), ECC/HANH shall notify the family of the proposed termination of the long-term hardship exemption, the effective date of the proposed termination, and the reason for such proposed termination. This letter shall be delivered to the resident by first class mail no later than thirty (30) days prior to the effective date of the proposed termination. Any resident who disagrees with the proposed termination may request a grievance in accordance with ECC/HANH/ELM CITY COMMUNITIES's grievance procedures, a copy of which will be included in the notice of termination. In cases where an appeal is sought, no action shall be taken by ECC/HANH until the grievance process is completed.

The President may waive any or all of these requirements in cases where he/she determines that the hardship conditions are likely to be permanent.

PUBLIC HOUSING RENT SIMPLIFICATION SUMMARY

EXCEPTIONS TO LIPH REGULATIONS

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
Annual Income	24 CFR Part 5.609(a)(4) 5.609(c)(8) (x11)	Any income derived from an asset to which any member of the family has access Adoption assistance payments for any child in excess of \$480.00 received.	Excludes asset from the determination of annual income to the extent the amount does not exceed \$50,000. All income earned by fulltime student will be excluded who is over 18. Students who are HOH or spouse are not excluded. All income earned by a family from adoption assistance will be excluded.
Income Exclusion for Person Enrolled in FSS Program	24 CFR Part 5.609(b)(1)	Incremental earnings and benefits resulting in any family member from participation in a qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.	Exclude 100 percent of any incremental earnings from wages or salaries earned by any family member during the first year of FSS program participation, 75% in 2 nd year, 50% in 3 rd year, 25% in 4 th year and 0% in 5 th year, as long as the household is enrolled in the FSS Program. This will not exceed 5 years. A family’s eligibility to receive this optional income disallowance is limited to a total of 48 months. In addition, for families that qualify and receive the federal EID, the total number of months that a family may receive the optional income disallowance provided for under this subparagraph and under the Federal Earned Income Disregard

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
			<p>(EID) may not exceed 48 months. In no event shall the family receive the exclusion provided for under this subparagraph during the same period said family member is receiving the federal EID as set forth in 24 CFR Part 5.617.</p> <p>Additionally, the current exclusion covering incremental earnings of any family participating in a state or local program will be expanded to include any qualifying federal program, whether or not the member is enrolled in the FSS program</p>
Business Income for Resident Owned Businesses	24 CFR Part 5.609(b)(2)	The net income from the operation of a business or profession is included in determining annual income.	Exclude 100 Percent of any net income derived from the operation of a businesses; provided the business qualifies as a resident owned business under 24 CFR Part 963.5. During the first year of enrollment in FSS program 100 percent; 75 percent in the second year; 50 percent in the third year; 25 percent in the fourth year; 0 percent exclusion thereafter.
Earned Income Disallowance	24 CFR Part 960.255	Incremental income earned by a family member, provided the increase in income is the result (1) of employment of a family member was previously unemployed for one or more years prior to employment; (2)	ECC/HANH will continue to implement the Earned Income Disregard (EID). The maximum amount of time a family may participate in the program combined with the Family Self Sufficiency Program (FSS) is 48

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
		<p>increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or (3) result of new employment or increased earnings of a family member during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families</p>	<p>months. After 24 months, when the EID is exhausted, the family member may enter the FSS Program and 50% of their earnings may be excluded. They will then continue to exclude 25% in the fourth year and 0% thereafter. This will allow more families to enter and benefit from the program.</p> <p>In no event shall the family receive the exclusion provided for under this subparagraph during the same period said family member is receiving EID as set forth in 24 CFR Part 5.617. In addition, the total number of months that a family may receive the exclusion provided for under this subparagraph and under the EID may not exceed 48 months.</p>
Mandatory Deductions	24 CFR Part 5.611	<p>(1) \$480 for each dependent; (2) \$400 for any elderly family or disabled family; (3) The sum of the following to the extent the sum exceeds three percent of annual income: (i) Un-reimbursed medical expenses of any elderly family or disabled family; and (ii) reimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities</p> <p>(4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.</p>	Eliminate the outlined mandatory deductions under this part. These deductions will be considered as Exceptional Expense Deductions

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
Additional (Exception) Expenses Deductions	24 CFR 5.611	A PHA may adopt additional deductions from annual income. ECC/HANH had none	Families with verifiable deductions in excess of \$2,000 will be allowed to request that these additional expenses be used in determining TTP. These verifiable deductions must exceed \$2,000 and shall be the sum of (1) Mandatory Deductions determined in accordance with Section 5.611 (2), plus non-reimbursed utility expenses (except telephone and cable)
Total Tenant Payment	24 CFR 5.628	<p>(a) Determining total tenant payment (TTP). Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:</p> <ul style="list-style-type: none"> (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; (3) If the family is receiving payments for welfare assistance from 	The Total Tenant Payment (TTP) will be based upon (1) income tiered TTP structure or the minimum TTP \$50 for a family with income of up to \$2,500 annually.

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
		<p>a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or</p> <p>(4) The minimum rent, as determined in accordance with Sec. 5.630.</p>	
<p>Hardship Provision for Exceptional Expenses</p>	<p>24 CFR 5.611(2))</p>	<p>A PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.</p>	<p>A family may be exempt from minimum rent as follows;</p> <ul style="list-style-type: none"> (a) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program, including a family that includes a member who is a non-citizen (b) When the family would be evicted because it is unable to pay the minimum rent (c) When the income of the family has decreased because of changed circumstances, including loss of employment. <p>Family whose shelter expenses, plus un-reimbursed medical, childcare and disability expenses exceed 40 percent of annual income or whose medical, childcare or disability expenses of \$6,000 or more annually may</p>

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
			seek a deduction in rent for exceptional expenses.
Minimum Rent	24 CFR 5.630	<p>A family may be exempt from minimum rent of \$50.00 as follows: (i) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen; (ii) When the family would be evicted because it is unable to pay the minimum rent; (iii) When the income of the family has decreased because of changed circumstances; (iv) a death has occurred in the family's household; (v) any other circumstances to be considered by the PHA to be reason to waive the minimum rent requirement.</p>	<p>A family may only receive one hardship exemption from the minimum rent requirement during a twelve month period, unless a tenant is elderly, disabled, or is enrolled in ECC/HANH/ELM CITY COMMUNITIES's Family Self Sufficiency Program. The minimum rent requirement may be waived more than once during a twelve-month period if at least one adult member of the household enrolls in the Family Self Sufficiency Program (the "FSS Program"). Elderly and disabled families are not required to enroll in the FSS Program.</p>
Utility Allowances and Reimbursements	24 CFR 5.632(a) and (b)	Tenant Paid Utilities to be deducted from TTP to determine tenant rent.	No. Change. ECC/HANH will pay all utilities except for electricity at Westville Manor, Fairmont Heights, McConaughy Terrace and all Scattered Site properties.
Annual Reexamination of Income and Family Composition	24 CFR 960 Part 257	Reexamination of income must occur every year, except every two years for elderly or disabled households.	Reexamination of income will occur every three years for Elderly and Disabled families and every two years for all other families. Annual update of changes in family composition for persons 18 years of age and

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
			<p>older that are added or subtracted from the family. ECC/HANH will do UIV and submit a 50058 annually. Additionally, the Community Service requirement will be reviewed annually for all household members who are not disabled, working less than 20 hours per week or enrolled in classes under the FSS program.</p>
Interim Reexamination	24 CFR 960 Part 257	<p>A family may request an interim reexamination of family income because of any changes since the last examination. The owner must make the interim reexamination within a reasonable time after the family request. Currently, family must report any change in income that amounts to \$200 or more a month.</p>	<p>A family can request only three interim re-examinations each 12 months with the exceptions of those conditions where they are required to report certain changes in family composition or certain changes in family income. A family, except for elderly or disabled or a family enrolled in FSS may make one request for an interim for a hardship exemption each 12 months.</p>
Verification of Wages, Salaries and Assets below \$5,000 and Assets below \$50,000	24 CFR 5.659	<p>The owner must obtain and document in the family’s file third party verification of the following factors, or must document in the file why third party verification was not available :(1) Reported family annual income; (2) The value of assets; (3) Expenses related to deductions from annual income; and (4) Other factors that affect the determination of adjusted income.</p>	<p>Only a self-certification will be required for income up to and including \$5,000.00. For income above \$5,000.00 two most recent pay stubs or a W-2 or 1099 dated within 90 days of effective date of re-examination. ECC/HANH will continue to conduct EIV or UIV.</p> <p>Asset exclusion is raised to \$50,000.00 and only self-certification will be required.</p>

Topic	Regulatory Provision	Current Policy	Alternative MTW Policy for Public Housing Program
Determination of Tenant Total Payment (TTP)	24 CFR 5.628	<p>a) Determining total tenant payment (TTP). Total tenant payment is</p> <p>the highest of the following amounts, rounded to the nearest dollar: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; (3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or (4) The minimum rent</p>	<p>TTP based upon income-tiered approach. No family shall be subject to an increase in TTP of greater than \$25.00 a month during the second year that the family is subject to the Rent Simplification Policy. The increase in TTP during the third year the family is subject to Rent Simplification shall not exceed more than \$50 during the third year; \$75 a month during the fourth year; and \$100 a month above the monthly TTP in the year immediately preceding the implementation of Rent Simplification. The families TTP after the fifth year shall be whatever amount is determined under Rent Simplification. These limitations on rent increase shall only apply to increases in TTP that result from the imposition of Rent Simplification and not for increases that result from changes in family composition or changes in family income.</p>

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2010-19]

INTRODUCTION

ECC/HANH must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. ECC/HANH must not pass on the cost of verification to the family.

ECC/HANH will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary ECC/HANH policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by ECC/HANH.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 960.259, 24 CFR 5.230]

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

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and ECC/HANH 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.

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, ECC/HANH will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with ECC/HANH's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires ECC/HANH to use the most reliable form of verification that is available and to document the reasons when ECC/HANH uses a lesser form of verification.

ECC/HANH Policy

In order of priority, the forms of verification that ECC/HANH will use are:

Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

Up-front Income Verification (UIV) using a non-HUD system

Written Third Party Verification (may be provided by applicant or resident) (see page 7-5 for expanded definitions and examples)

Written Third-party Verification Form (verification form sent to a third-party) (see page 7-6 for additional information)

Oral Third-party Verification

Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

ECC/HANH Policy

Any documents (for earned income) used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to ECC/HANH. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

The ECC/HANH staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to ECC/HANH and must be signed in the presence of an ECC/HANH representative or ECC/HANH notary public.

Verification of Family Income \$5,000 or less

ECC/HANH Policy

Under its MTW Plan, for families with income of \$5,000 or less, ECC/HANH will accept a self-certification.

File Documentation

ECC/HANH must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that ECC/HANH has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

ECC/HANH Policy

ECC/HANH will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing exceptional expenses

When ECC/HANH is unable to obtain third-party verification, ECC/HANH will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2010-19].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to ECC/HANH's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to ECC/HANH.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until ECC/HANH has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through ECC/HANH's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

ECC/HANH must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

ECC/HANH Policy

ECC/HANH will obtain income reports for bi/triennial reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the bi/triennial reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable bi/triennial or interim reexamination documents.

When ECC/HANH determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

ECC/HANH is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

ECC/HANH Policy

ECC/HANH will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. ECC/HANH will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When ECC/HANH determines that discrepancies exist as a result of ECC/HANH errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

HUD encourages ECC/HANH to utilize other upfront verification sources.

ECC/HANH Policy

ECC/HANH will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

Department of Social Services (DSS)

Department of Labor (DOL) (provides access to State Wage Information Collection Agency (SWICA) data)

Child Support Enforcement Database

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to ECC/HANH by the family. If written third-party verification is not available, ECC/HANH must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

ECC/HANH may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

ECC/HANH Policy

Third-party documents provided by the family must be dated within 60 days of the request date. When a request for documentation is mailed, including notice of an initial eligibility or bi/triennial interview, the date of request is the date of the mailed letter.

If ECC/HANH determines that third-party documents provided by the family are not acceptable, ECC/HANH will explain the reason to the family and request additional documentation.

As verification of earned income, ECC/HANH will require the family to provide the four most current, consecutive pay stubs. The family must provide the four most current

consecutive paystubs if the family member is paid weekly and the most current consecutive paystubs if the family is paid bi-monthly or bi-weekly. Verification of unearned income from DSS, SSA benefits are to from current year.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, ECC/HANH must request a written third-party verification form.

ECC/HANH Policy

ECC/HANH will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by ECC/HANH.

Oral Third-Party Verification [Notice PIH 2010-19]

Oral third-party verification is mandatory if neither form of written third-party verification is available. ECC/HANH should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

ECC/HANH Policy

In collecting third-party oral verification, ECC/HANH staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification ECC/HANH will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations.

ECC/HANH Policy

If the family cannot provide original documents, ECC/HANH will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

ECC/HANH may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

ECC/HANH Policy

ECC/HANH 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].

7-I.E. SELF-CERTIFICATION

Self-certification, or “tenant declaration,” is used as a last resort when ECC/HANH is unable to obtain third-party verification.

When ECC/HANH relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

ECC/HANH Policy

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

ECC/HANH 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 ECC/HANH and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a ECC/HANH representative or ECC/HANH notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

ECC/HANH Policy

ECC/HANH will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or DMV identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card Voter's registration Official Student Identification card	Certificate of birth (long form) Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at ECC/HANH's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to ECC/HANH and be signed in the presence of a ECC/HANH representative or ECC/HANH notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where ECC/HANH has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.

Verification to reflect gender change and name change

Families that want to change a sex designator on a household member in the family composition can do so by submitting supporting documentation.

ECC/HANH Policy

If a household member wishes to change their name or sex designator the following documents must be submitted

- a certified copy of a court order granting your legal name change/ Sex designator or amend the sex designation on the birth certificate
- an updated Social Security Card that reflects name change

7-II.B. 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.

ECC/HANH must accept the following documentation as acceptable evidence of the SSN:

- 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

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

ECC/HANH Policy

ECC/HANH 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 ECC/HANH within 90 days.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. ECC/HANH 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 ECC/HANH determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period ECC/HANH is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

ECC/HANH Policy

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

Social security numbers must be verified only once during continuously-assisted occupancy.

ECC/HANH Policy

ECC/HANH will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once an individual's status is classified as "verified" in HUD's EIV system, ECC/HANH will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

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

ECC/HANH Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, ECC/HANH will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

ECC/HANH Policy

Families are required to verify relationships as detailed below. Exceptions may be made by ECC/HANH's Supervisors and Management on a case-by-case basis.

Marriage

ECC/HANH Policy

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).

Separation or Divorce

ECC/HANH Policy

ECC/HANH will require the family to provide documentation of the divorce or separation.

A copy of a divorce decree signed by a court officer; is required to document that a couple is divorced.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

ECC/HANH Policy

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

The ECC/HANH will consider any of the following as verification if the document shows another address:

Court documents demonstrating that a husband or wife has instituted divorce action or legal separation.

An order of protection/restraining order obtained by one family member against another.

Proof of another home address, such as utility bills, canceled checks for rent payments, drivers' license, or lease or rental agreement, if available.

Department of Labor records, or records of another public agency, obtained through third-party verification that indicates the new address of the family member.

If no other proof can be provided, the ECC/HANH will accept a Notarized Statement from the family and may conduct home visits if necessary to verify the absence of an adult as reported.

If the adult family member is incarcerated, a document from the Court or prison should be obtained.

The ECC/HANH may also verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

Foster Children and Foster Adults

ECC/HANH Policy

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

Guardianship or Custody of Minor Children

ECC/HANH Policy

Self-certification by tenant of guardianship or custody.

Documentation that an adult family member has guardianship or custody of minor child(ren), which could include, but is not limited to, two of any of the following:

Verification from DSS, DCF, Social Security Administration proof of payee, or other governmental agency, documentation of legal custody or guardianship, notarized certification signed by the absent parent or in loco parentis, school

records, or other official document listing minor child(ren) under the tenant's guardianship or custody.

7-II.E. VERIFICATION OF STUDENT STATUS

ECC/HANH Policy

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

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

ECC/HANH must verify the existence of a disability in order to allow certain income disallowances and deductions from income. ECC/HANH is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. ECC/HANH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If ECC/HANH receives a verification document that provides such information, ECC/HANH will not place this information in the tenant file. Under no circumstances will ECC/HANH 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.

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

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

Family Members Receiving SSA Disability Benefits

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

ECC/HANH Policy

For family members claiming disability who receive disability payments from the SSA, ECC/HANH 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, ECC/HANH will request a current year SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, ECC/HANH 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 ECC/HANH.

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.

ECC/HANH Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and ECC/HANH verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

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

ECC/HANH may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

ECC/HANH Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless ECC/HANH receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

ECC/HANH Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, ECC/HANH must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

ECC/HANH will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

ECC/HANH must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

ECC/HANH Policy

See Chapter 4-III.B.

- Displaced by Government Action
- Reasonable Accommodation

ECC/HANH will verify these preferences through review of original documents reflecting the government displacement action or reasonable accommodation, including ECC/HANH documents.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified.

This part provides ECC/HANH policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

ECC/HANH Policy

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.

Wages

ECC/HANH Policy

To reduce the administrative burden associated with the verification of income, ECC/HANH shall accept the following verification methods:

1. For earnings from wages and salaries where Annual Income for the prior period is \$5,000.00 or less, self certification from family is all that shall be required as verification of said income.
2. For earnings from salaries, other than tips, in excess of \$5,000.00 the family must provide originals of the four most current, consecutive pay stubs if the family member is paid weekly, and originals of the two most current, consecutive pay stubs if the family member is paid bi-weekly. If the required number of paystubs are not available, the W-2 or 1099 within 180 days of the anniversary date may also be required in addition to the self-certification, but only to the extent that verification of Annual Income is not available from a third-party source or Upfront Income Verification.
3. Self-certification of all sources of Annual Income shall be required in all cases.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

ECC/HANH Policy

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.

ECC/HANH 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 ECC/HANH may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

ECC/HANH Policy

To verify the SS/SSI benefits of applicants, ECC/HANH 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, ECC/HANH 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 ECC/HANH.

To verify the SS/SSI benefits of residents, ECC/HANH 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, ECC/HANH 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, ECC/HANH 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 ECC/HANH.

7-III.D. ALIMONY OR CHILD SUPPORT

ECC/HANH Policy

The methods ECC/HANH will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Child Support database

Copies of the receipts and/or payment stubs for the 60 days prior to ECC/HANH 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

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

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

ECC/HANH Policy

Assets valued at less than \$50,000:

For families with a total market value of assets less than \$50,000, only a self-certification of assets shall be required.

Assets valued at \$50,000 or more:

The family must provide family-provided documents to verify all assets when total market value of asset exceeds \$50,000.00.

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.

ECC/HANH Policy

Assets Valued at Less than \$50,000 Disposed of for Less Than Fair Market Value.

ECC/HANH will accept a self-certification from the family as verification of assets valued at less than \$50,000 disposed of for less than fair market value.

7-III.F. NET INCOME FROM RENTAL PROPERTY

ECC/HANH Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

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

7-III.G. RETIREMENT ACCOUNTS

ECC/HANH Policy

ECC/HANH 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, ECC/HANH will accept an original document from the entity holding the account with a date that shows it is the most recent statement for the account.

Upon retirement, ECC/HANH 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, ECC/HANH will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6B, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, ECC/HANH is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

ECC/HANH may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, ECC/HANH have the option of requiring additional verification.

For partially excluded income, ECC/HANH **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is

defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, income excluded under the earned income disallowance).

ECC/HANH Policy

ECC/HANH will accept the family's self-certification as verification of fully excluded income. ECC/HANH may request additional documentation if necessary to document the income source.

ECC/HANH will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

ECC/HANH Policy

Families attest to the Zero Income Affidavit.

ECC/HANH defines a Zero Income family as a family receiving no income from any source, or that is receiving only food stamps. A family receiving other types of income, whether included or excluded under regulation or federal statute, is not considered a Zero Income family.

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

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT DEDUCTION

The dependent deduction requires only that ECC/HANH verify that the family members identified as dependents meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6B (6B-II.B.) for a full discussion of this deduction. ECC/HANH will verify that:

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

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6B-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

ECC/HANH Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

ECC/HANH will make a best effort to determine what expenses from the past are likely to continue to occur in the future. ECC/HANH 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, ECC/HANH must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. ECC/HANH will verify that the family meets

the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6B (6B-II.D.) for ECC/HANH policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

ECC/HANH Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

ECC/HANH Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, ECC/HANH will verify:

- The anticipated repayment schedule

- The amounts paid in the past, and

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

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6B-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

ECC/HANH Policy

ECC/HANH will accept written third-party documents provided by the family.

If family-provided documents are not available, ECC/HANH will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.

- Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

ECC/HANH Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, ECC/HANH must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6B-II.E.).
- The expense is not reimbursed from another source (as described in 6B-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. ECC/HANH will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

ECC/HANH must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

ECC/HANH Policy

ECC/HANH will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6B-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense allows a family member, or members (possibly including the disabled family member), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

ECC/HANH Policy

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

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6B (6B-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, ECC/HANH must verify that:

- The child is eligible for care (under the age of 13/12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. ECC/HANH will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

ECC/HANH Policy

The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

ECC/HANH 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.

ECC/HANH Policy

Information to be Gathered

ECC/HANH will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible ECC/HANH will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases

ECC/HANH will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to ECC/HANH any reports provided to the other agency.

In the event third-party verification is not available, ECC/HANH will provide the family with a form on which the family member must record job search efforts. ECC/HANH will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

ECC/HANH 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

ECC/HANH will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6B.

ECC/HANH Policy

ECC/HANH will verify that the type of child care selected by the family is allowable, as described in Chapter 6B (6B-II.F).

ECC/HANH will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

ECC/HANH will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

ECC/HANH Policy

The actual costs the family incurs will be compared with ECC/HANH's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, ECC/HANH will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
 - “Admitted as a Refugee Pursuant to Section 207”
 - “Section 208” or “Asylum”
 - “Section 243(h)” or “Deportation stayed by Attorney General”
 - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

- Form I-688B Employment Authorization Card annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between ECC/HANH and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require ECC/HANH to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, ECC/HANH may conduct additional inspections in accordance with ECC/HANH policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and ECC/HANH's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes ECC/HANH's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

It is ECC/HANH's policy that all units must be occupied pursuant to a dwelling Lease Agreement that complies with HUD's regulations. This ACOP Chapter describes pre-leasing activities and ECC/HANH's policies pertaining to Lease execution, security deposits, other charges, and additions to the Lease.

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that ECC/HANH may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the ECC/HANH's leasing policies.

8-I.B. LEASE ORIENTATION

ECC/HANH Policy

Applicants shall have an opportunity to see the unit being offered before they accept the offer and lease the unit in accordance with **ECC/HANH's Procedure on Showing Units Prior to Leasing.**

On or after January 1, 2024, prior to the tenant's occupancy of a dwelling unit, ECC/HANH shall offer the prospective tenant the opportunity to conduct a walk-through of the dwelling unit. If the tenant requests such a walk-through, ECC/HANH and the tenant, shall use a copy of the preoccupancy walk-through checklist prepared by the Commissioner of Housing.

ECC/HANH and the tenant, or their designees, shall specifically note on the walk-through checklist any existing conditions, defects or damages to the dwelling unit present at the time of the walk-through.

After the walk-through, ECC/HANH and the tenant, or their designees, shall sign duplicate copies of the walk through checklist and each shall receive a copy.

At lease up, prior to occupancy, an ECC/HANH representative will conduct a lease orientation with the family. The head of household, spouse/cohead, and all adult family members are required to attend. All adult family members and head of spouse/cohead regardless of age, must sign the lease prior to move-in.

On or after January 1, 2024, whenever ECC/HANH rents a unit in a building or complex of five or more units, ECC/HANH must provide notice to every tenant of the rights of tenants who are 62 or older or disabled, which notice shall be a form created by the Department of Housing no later than December 1, 2023. This notice must be provided to all tenants in English and Spanish.

Lease Orientation Agenda

ECC/HANH Policy

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- Flat Rent Notice
- Pet policy
- Lead paint disclosures
- ECC/HANH rules and procedures
- Applicable City ordinances
- Satellite dish policy
- Drug addendum
- Reasonable accommodation form
- Intent to vacate form
- Resident handbook
- Incident report form
- Nuisance complaint form
- Community service & self-sufficiency requirement form

Applicable lease addenda

A copy of ECC/HANH's grievance procedure

A copy of ECC/HANH'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

A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

Information about the protections afforded by the Violence against Women Act of 2013 and Reauthorization of 2022 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-VII.C)

A copy of the form [HUD-5380](#) Notice of Occupancy Rights Under the Violence Against Women Act

A copy of form [HUD-5382](#) Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

A copy of the ECC/HANH's smoke-free policy

A notice that includes the procedures for requesting relief and ECC/HANH's criteria for granting requests for relief for excess utility surcharges

A copy of the Community Service and Self-Sufficiency Requirement and a copy of the acknowledgement form

Topics to be discussed and explained to all families include:

Applicable deposits and all other charges

Review and explanation of lease provisions

Unit maintenance requests and work orders

ECC/HANH's interim reporting requirements

Review and explanation of occupancy forms

Community service and Self Sufficiency requirements (CSSR)

Family choice of rent including information on minimum rent and hardship requests

Visitor policies

VAWA protections

Smoke-free policies

In addition to incorporating references to the lease in this ACOP, the following schedules and reference documents must be publicly posted in a conspicuous place in each development's office and provided to applicants and tenants upon their request (24 CFR Part 966.5):

- Grievance procedures (24 CFR § 966.52(b)).
- Rules adopted and implemented by the ECC/HANH for the benefit and well-being of the housing project and the tenants (24 CFR § 966.4(f)(4)).
- Schedules of utilities, if used to determine charges to tenants (e.g., utility allowances, excess utility charges) (24 CFR § 966.4(b)(2)).
- Schedules of repairs, if used to determine charges to tenants (e.g., maintenance charges) (24 CFR § 966.4(b)(2)).
- Schedules of maintenance service charges, if used to determine charges to tenants (e.g., lockout charges) (24 CFR § 966.4(b)(2)).
- Pet rules (if any) **must** be incorporated in leases for projects designated for elderly or disabled households (24 CFR § 5.321(a)(1)(ii)).
- The two HUD rules related to lead-based paint that affect public housing leases are the [Lead Disclosure Rule](#) and the Lead Safe Housing Rule (24 CFR Part 35). These rules apply to all housing that was constructed prior to 1978, except housing for the elderly, persons with disabilities, or any zero-bedroom dwelling, unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly, persons with disabilities, or zero-bedroom dwelling (24 CFR § 35.86 and 35.110).
- ECC/HANH must ensure that the lease, lease addendum, or tenant addendum describes specific protections afforded to victims of domestic violence, dating violence, sexual assault, or stalking. This includes incorporating appropriate regulatory definitions, provisions regarding documenting Violence Against Women Act (VAWA) status and describing the remedies available to victims of domestic violence, dating violence, sexual assault, or stalking as applicable to the Public Housing program, including emergency transfers. This includes providing tenants with the [HUD-5380](#) Notice of Occupancy Rights Under the Violence Against Women Act and [HUD-5382](#) Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

Periodic Lease Orientation

ECC/HANH may hold additional lease orientation sessions on an ongoing basis. Residents will be informed if an orientation session is mandatory.

Such periodic lease orientation sessions are intended to ensure that residents are fully aware of their rights and responsibilities under the lease and this ACOP, and/or to address problems within the community.

When resident attendance at such lease orientation sessions is required, ECC/HANH shall provide at least 7 days notice of the required session.

If a head of household (or adult designee) is not able to attend the scheduled lease orientation session for good cause, he or she may arrange in advance a rescheduled or individual session.

A family who has failed to participate in a required lease orientation session is responsible for complying with any lease terms, including specific rules and regulations for lease compliance, that are discussed in this orientation session. Repeated failure to participate in required lease

orientation sessions, without advance notice and alternate arrangements, may be grounds for termination of tenancy.

Housekeeping classes that are a result of a referral to Resident Services are mandatory. ECC/HANH shall provide at least 7 days notice of the required session.

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and ECC/HANH, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one ECC/HANH unit to another (with no change in reexamination date).

The lease must state the composition of the household as approved by ECC/HANH (family members and any ECC/HANH-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

ECC/HANH Policy

The lease must identify the following information (24 CFR §966.4(a)(1)):

- ECC/HANH and the name of the tenant.
- The unit rented (address, apartment number, and any other information needed to identify the dwelling unit).
- The term of the initial lease and renewal terms (24 CFR § 966.4(a)(1)(iii)).
- The lease term must be for twelve months and the lease term must be automatically renewed for the same period (24 CFR § 966.4(a)(2)(i)).
- A statement of what utilities, services, and equipment are to be supplied ECC/HANH without additional cost, and what utilities and appliances are to be paid for by the tenant.
- The composition of the household as approved by ECC/HANH (family members and any approved live-in aide). The family must promptly inform ECC/HANH of the birth, adoption, or court-awarded custody of a child. The family must request ECC/HANH approval to add any other family member as an occupant of the unit.
- HUD's regulations in 24 CFR part 5, subpart L about the Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. This is also known as VAWA.
- ECC/HANH's smoke-free rules (24 CFR § 965.655).

The lease must include a Lead Disclosure Addendum that is signed and dated by the ECC/HANH, any leasing agent of ECC/HANH, and the tenant(s).

The Lead Disclosure Lease Addendum must:

- Contain the required Lead Warning Statement;
- Disclose the presence of known lead-based paint and lead-based paint hazards;
- Disclose whether *ECC/HANH* has records or reports that are being provided or that there are no records or reports to disclose;

- Document the receipt by the tenant of the EPA pamphlet and of records and reports on lead-based paint and lead-based paint hazards; and
- Include a statement that acknowledges that the tenant received the lead disclosure statement, including any records or reports, and the pamphlet and certifies the accuracy of these statements.

The lease, lease addendum, or tenant addendum must include the specific protections afforded to victims of domestic violence, dating violence, sexual assault, or stalking. This includes regulatory definitions, provisions regarding documenting Violence Against Women Act (VAWA) status and descriptions of the remedies available to victims of domestic violence, dating violence, sexual assault, or stalking as applicable to the Public Housing program, including emergency transfers.

The head of household, spouse or cohead, and all other adult members of the family will be required to sign the public housing lease prior to occupancy. 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 ECC/HANH 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 ECC/HANH assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

Households that include a live-in aide are required to execute a Live-in Aide Addendum authorizing the arrangement and describing the status of the attendant.

If, for any reason, the head of household ceases to be a member of the household, ECC/HANH will consider executing a Lease with the remaining adult family member(s).

- Lease signers must be persons legally eligible to execute contracts.
- The names, Social Security numbers, and date of birth of all household members are listed on the Lease at initial occupancy and on the Reexamination Form each subsequent year. Only those persons listed on the most recent certification shall be permitted to occupy a dwelling unit.
- Whenever there is a change in the family composition, a Lease amendment will be executed.
- Changes to tenant rents are made upon the preparation and execution of a "Notice of Rent Adjustment" which becomes an attachment to the Lease. Documentation will be included in the tenant file to support proper notice.
- Households that include a Live-In Aide will contain file documentation and a lease provision that the Live-In Aide is not a party to the Lease and is not entitled to assistance, except for occupancy while serving as the attendant for the tenant family member. Only one additional bedroom can be assigned to a Live-In Aide to accommodate the Live-In Aide only.

If a resident transfers from one unit to another, a new lease will be executed for the dwelling into which the family moves.

If a resident has a pending summary process matter or has an outstanding balance due, ECC/HANH and is transferring to another unit, execution of a lease addendum will be required in order for ECC/HANH to transfer the resident's current balance and legal case.

When a New Lease is Required

ECC/HANH Policy

A new lease will be required when:

The family transfers to another LIPH unit;

The head of household changes; or

ECC/HANH modifies or revises its LIPH lease.

When a New Lease is Not Required

ECC/HANH Policy

The lease automatically renews except for the situations above. A new lease will not be executed at regular reexamination (lease renewal).

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and ECC/HANH [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

ECC/HANH may modify its lease from time to time. However, ECC/HANH must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. ECC/HANH must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

ECC/HANH Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

ECC/HANH Policy

When ECC/HANH proposes to modify or revise schedules of special charges or rules and regulations, ECC/HANH will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

ECC/HANH Policy

The lease will be amended to reflect all changes in family composition.

If at any time during the life of the lease agreement, a change in the resident's status results in the need for changing or amending any provision of the lease, either:

- a. New lease agreement will be executed, or
- b. A Notice of Rent Adjustment will be executed, or
- c. An appropriate rider (Live-in-Aide Addendum) will be prepared and made a part of the existing lease. All copies of such riders or insertions are to be dated and signed by the Resident and by the authorized representative of ECC/HANH.

If a new household member is approved by ECC/HANH to reside in the unit, the person's name and birth date will be added to the lease. The head of household and ECC/HANH will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of ECC/HANH, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by ECC/HANH. ECC/HANH may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

ECC/HANH Policy

Residents may pay a security deposit to ECC/HANH at the time of admission. The amount of the security deposit will be the amount of the family's total tenant payment at the time of move-in (prior to adjustments for utility allowances), or, for households who elect a flat rent, the amount of the monthly flat rent.

The security deposit is to be paid in full at or before execution of the lease, unless a security deposit payment agreement is executed by the housing manager on a case-by-case basis due to hardship. In no case shall an agreement for payments toward the security deposit extend more than three months. The amount of the security deposit shall be noted in the lease.

ECC/HANH will accept alternatives to the security deposit including promises to pay from any agency of the State of Connecticut, the City of New Haven, or community mediation agencies or any Social Service Agency.

ECC/HANH will hold the security deposit for the period the family occupies the unit. ECC/HANH will not use the security deposit for rent or other charges while the resident

is living in the unit. ECC/HANH shall keep the resident's security deposit in escrow as required by state law; interest will be paid on the security deposit according to the rate and other requirements provided by state law.

Within 21 calendar days of move-out or fifteen days after receiving written notification of such tenant's forwarding address, whichever is later, ECC/HANH will refund to the resident the amount of the security deposit (including interest earned on 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.

Upon vacating unit, ECC/HANH may not retain any part of the security deposit collected or seek payment from the tenant for any condition, defect or damage that was noted in the preoccupancy walk-through checklist.

The walk-through checklist shall be admissible as evidence of the condition of the dwelling unit at the beginning of a tenant's occupancy in any administrative or judicial proceeding, if necessary. The checklist will be effective January 1, 2024. Upon termination of a tenancy, the tenant may notify ECC/HANH in writing of the forwarding address. Not later than twenty-one (21) days after termination of a tenancy or fifteen days after receiving written notification of such tenant's forwarding address, whichever is later, ECC/HANH shall deliver to the former tenant at such forwarding address either.

- (A) the full amount of the security deposit paid by such tenant plus accrued interest, or
- (B) the balance of such security deposit and accrued interest after deduction for any damages caused by the tenant's failure to comply with such tenant's obligations. The security deposit should be returned with a written statement itemizing the nature and amount of such damages.

If ECC/HANH who violates any provision of this subsection shall be liable for twice the amount of any security deposit paid by such tenant, except that, if the only violation is the failure to deliver the accrued interest, such landlord shall be liable for ten dollars or twice the amount of the accrued interest, whichever is greater.

If the resident disagrees with the amount charged to the security deposit, ECC/HANH will provide a meeting to discuss the charges.

The interest rate for each calendar year shall be not less than the deposit index, as defined in section 36a-26, for that year. On the anniversary date of the tenancy and annually thereafter, such interest shall be paid to the tenant or resident or credited toward the next rental payment due from the tenant or resident, as the landlord or owner shall determine.

If a resident transfers from one unit to another, a new lease will be executed for the dwelling into which the family moves. The security deposit will transfer to the new unit. ECC/HANH will charge the resident for any unpaid rent, damages beyond normal wear and tear, and/or other charges for the former unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by ECC/HANH in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and ECC/HANH must give written notice stating any change in the amount of tenant rent and when the change is effective in accordance with HUD requirements (24 CFR § 966.4(b)(1)(ii)).

ECC/HANH Policy

The tenant rent is due and payable at the ECC/HANH -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 ECC/HANH does not receive payment by the agreed-upon date, a delinquent rent notice will be sent.

If a family's tenant rent changes, ECC/HANH 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 at least 30 days before the effective date.

First Month's Rent

ECC/HANH Policy

Residents will pay the prorated first month's rent to ECC/HANH at the time of admission. Prorated rent will be calculated based on the move-in date.

Flat Rent v Income Based Rent

Tenants have the right to choose between income-based or flat rent annually (24 CFR § 960.253).

Late Fees and Nonpayment

At the option of ECC/HANH, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after ECC/HANH gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under ECC/HANH grievance procedures. ECC/HANH must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

ECC/HANH Policy

If the family fails to pay their rent on or before 11:59 pm on the 10th day of the month, and ECC/HANH has not agreed to accept payment at a later date, a 14-day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

When there is a Presidential declaration of a national emergency and Federal funding for emergency rental assistance is available for tenants, HUD may determine that tenants need a longer notification period for lease termination in order to apply for and access assistance. When HUD issues a notice to that effect (as happened in 2021 with Notice PIH 2021-29), ECC/HANH must provide at least a 30-day notification of lease termination for nonpayment of rent (24 CFR § 966.8). The expanded timeframe remains in effect until a subsequent HUD notice rescinds it.

While the 30-day notification requirement is in effect, ECC/HANH's notification must additionally provide information on the availability of emergency rental assistance and how to secure it. The HUD notice activating the 30-day requirement provides specific language that must be incorporated into this notification (see Notice PIH 2021-29).

ECC/HANH is not required to incorporate the minimum 30-day notification requirement into tenants' leases. Instead, when the 30-day notification requirement is activated, ECC/HANH is required to notify all public housing families of the expanded timeframe.

ECC/HANH may comply with this notification requirement by providing such notifications in writing or through electronic communications.

When evicting for failure to pay non-rent charges, ECC/HANH must follow state laws (if any) that apply to eviction for good cause (24 CFR § 966.4(1)(3)(i)(C)).

In addition, if the resident fails to make payment on or before 11:59 pm on the 10th day of the month, a late fee of \$25.00 will be charged. 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. If the family requests a grievance hearing within the required timeframe, ECC/HANH may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds, or is written on a closed account, or is returned by the bank for any other reason, the rent will be considered unpaid and a returned check fee of \$15.00 will be charged to the family. The fee will be due and payable 14 days after billing.

Any rent payment received will be applied to the oldest rent charges in the resident's account.

Excess Utility Charges

If ECC/HANH charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

ECC/HANH Policy

ECC/HANH currently does not have excess utility charges.

Reasonable Accommodations in Adjusting the Utility Allowance

On request from a family that includes a person with a disability ECC/HANH must approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed to make the program accessible to and usable by the family.

The policy of ECC/HANH is to adjust the amount of tenant-paid utilities or ECC/HANH consumption levels for tenant allowances in documented situations when a qualified family is entitled to the adjustments.

Such adjustments shall be made based on the qualification of the individual's disability-related need, and the relief granted to the resident should be commensurate with the estimated value of the utility consumption necessitated by the equipment or condition causing the excess consumption.

Residents wishing to request relief under this procedure should submit a Reasonable Accommodation request. Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of a disability.

Residents who disagree with an ECC/HANH decision may request an informal hearing in accordance with the Grievance Procedure, a copy of which is maintained in the management offices.

Maintenance and Damage Charges

If ECC/HANH charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after ECC/HANH gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the ECC/HANH grievance procedures.

ECC/HANH must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

ECC/HANH Policy

Residents will be charged for maintenance service only when the service is required due to use beyond normal wear and tear (tenant abuse). This may include charges for responding to lockouts, broken doors, broken windows, toilet stoppages or clogged drains caused by items being dropped into toilets or drains and other areas caused by neglect or misuse.

Any maintenance charge will be clearly indicated on the resident's bill.

Schedules of special charges for services, repairs, utilities and rules and regulations which are required to be incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the property management office, and they will be provided to applicants and residents upon request.

Schedules of special charges and rules and regulations are subject to modification or revision. Residents and resident organizations will be provided at least thirty (30) days written notice of the reason(s) for any proposed modifications or revisions, and they will be given an opportunity to present written comments. A copy of this notice shall be posted in the central office. Comments will be taken into consideration before any proposed modifications or revisions become effective.

Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

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

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

8-I.G. LEASE TERMINATIONS

The lease must describe the grounds for termination, as well as the procedures used by ECC/HANH and the tenant to terminate tenancy (24 CFR § 966.4(1)(1)).

The lease must indicate that ECC/HANH may terminate tenancy only for:

- Serious or repeated violations of material terms of the lease, such as the failure to make payments due under the lease (24 CFR § 966.4(1)(2)(i)(A)), or failure to fulfill household obligations, as described in tenant obligations (24 CFR § 966.4(1)(2)(i)(B)).
- Being over the income limits for the program (24 CFR § 966.4(1)(2)(ii); 24 CFR §960.261; Notice PIH 2019-11 (HA)).

- Other good cause such as discovering facts that make the tenant ineligible after admission (24 CFR § 966.4(l)(2)(iii)(B)), or discovery of material, false statements, or fraud by the tenant in connection with an application for assistance or with re-examination of income (24 CFR § 966.4(l)(2)(iii)(C)).
- Failure to accept ECC/HANH's offer of a lease revision to an existing lease (24 CFR § 966.4(l)(2)(iii)(E)).
- Criminal activity or alcohol abuse as stated in the lease.
- Required lifetime participation in a state sex offender registration program.

Termination by Tenant

The tenant may terminate the Lease with ECC/HANH, by submitting a written 30-day advance notice as defined in the lease agreement. When a tenant must give less than 30 days' notice due to circumstances beyond their control ECC/HANH, 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 of household.

Termination by ECC/HANH

Termination of tenancy will be in accordance with ECC/HANH's Lease. All eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR § 5.105.

ECC/HANH Policy

Mandatory Lease Termination

ECC/HANH must immediately initiate the lease termination process to terminate tenancy if ECC/HANH determines that any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing (24 CFR § 966.4(l)(5)(i)(A)).

When initiating the process for termination of tenancy for individuals who commit sexual crimes, note that current HUD regulations at 24 CFR § 960.204(a)(4) only require that persons subject to lifetime registration requirements under a state sex offender registration program be banned from admission, not be terminated from tenancy.

Lease provisions regarding grounds for termination must also address the circumstances of domestic violence, including:

ECC will not pursue termination of tenancy for the following reasons:

- Prohibiting construing incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking to be a serious or repeated violation of the

lease or good cause for termination of the tenancy, occupancy rights of, or assistance to the victim or the threatened victim of domestic violence, dating violence, sexual assault, or stalking (24 CFR § 5.2005(c) (1)).

- Prohibiting termination or denial of tenancy, occupancy rights, or assistance to the victim because of criminal activities directly related to domestic violence, dating violence, sexual assault, or stalking engaged in by a member of the tenant's household, or any guest, or other person under the tenant's control, if the tenant or affiliated individual of the tenant is the victim or threatened victim (24 CFR § 5.2005(b)(2)).

ECC/HANH will not hold tenants liable for rent through the remainder of the lease term if the tenant terminates before the end of the lease term and provides notice as required under the lease.

ECC/HANH will pursue for following reasons:

- Violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises;
- Nonpayment of rent or other charges due under the Lease, or repeated chronic late payment of rent;
- Failure to provide timely and accurate statements of income, assets, expenses and family composition as may be necessary for ECC/HANH to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size at Admission, Interim, Special or Annual Rent Reexaminations;
- Assignment or subleasing of the premises or providing accommodation for boarders or lodgers;
- Use of the premises for purposes other than solely as a dwelling unit for the Tenant and Tenant's household as identified in the Lease, or permitting its use for any other purposes;
- Failure to abide by necessary and reasonable rules made by ECC/HANH for the benefit and well-being of the housing project and the Tenants;
- Failure to abide by applicable building and housing codes materially affecting health or safety;
- Repeated failure to dispose of garbage waste and rubbish in a safe and sanitary manner;
- Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, including elevators, in a safe manner;
- Acts of destruction, defacement or removal of any part of the premises, or failure to cause guests to refrain from such acts;
- Failure to pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises, project buildings, facilities, equipment, or common areas;
- The tenant, any member of the tenant's household, or a guest or other person under the Tenant's control engaging in criminal activity including drug-related criminal activity, on or off public housing premises (as defined in the Lease and this policy);
- Alcohol and drug abuse that ECC/HANH determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;

- Failure to attend ECC/HANH mandatory meetings;
- Failure of a non-exempt family member to comply with community service provisions, as grounds only for non-renewal of the Lease and termination of tenancy at the end of the 12-month lease term;
- Discovery after admission of facts that make the tenant ineligible;
- Discovery of materially false statements or fraud by the Tenant in connection with an application for assistance or with reexamination of income;
- Failure to accept ECC/HANH's offer of a Lease revision to an existing Lease that is on a form adopted by ECC/HANH in accordance with HUD regulations, with written notice of the offer of the revision at least 30 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family;
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by ECC/HANH that such a dwelling unit is available;
- Not giving prompt notice to ECC/HANH of tenant's leaving dwelling unit unoccupied for 30 days;
- Maintaining unauthorized pets in violation of the Pet Ownership policies;
- Tenants of the household and guests engaging in any abusive or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other residents, occupants, guests, invitees, or directed at management, its agents, its employees, or vendors. Failure to abide constitutes grounds for lease termination and eviction from the unit; or
- Any other good cause set forth by the Lease.

CRITERIA FOR TERMINATING THE LEASE

ECC/HANH will use the preponderance of the evidence as the standard for making all termination decisions.

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

CONSIDERATION OF CIRCUMSTANCES

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, ECC/HANH 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.

ECC/HANH will 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 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 ECC/HANH's failure to terminate the tenancy.
- The effect of ECC/HANH's decision on the integrity of the Public Housing program.
- 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.
- The successful completion of a supervised drug or alcohol rehabilitation program 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. For this purpose, ECC/HANH will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.
- If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, in a manner compliant with resident medical privacy rights, ECC/HANH will determine whether the behavior is related to the disability. If so, upon the family's request, ECC/HANH will determine whether alternative measures are appropriate as a reasonable accommodation.
- Provisions of VAWA for victims of domestic violence, dating violence, sexual assault, or stalking.

ALTERNATIVES TO TERMINATION OF THE LEASE

Exclusion of Culpable Household Member

ECC/HANH will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or has 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.

Repayment of Tenant Debt

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

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, ECC/HANH will terminate the family's tenancy in accordance with the policies in this Chapter. ECC/HANH will also pursue other modes of collection.

General repayment guidelines include:

- Before executing a repayment agreement with a family, the ECC/HANH will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to ECC/HANH that a down payment of 10 percent would impose an undue hardship, ECC/HANH may, in its sole discretion, require a lower percentage or waive the requirement.
- The minimum monthly payment amount will be the greater of: (1) the difference between 40 percent of the family's monthly adjusted income (MAI) and the TTP at the time the agreement is executed, or (2) twenty-five dollars (\$25).
- If a family can provide evidence satisfactory to ECC/HANH that a monthly payment amount of \$25 would impose an undue hardship, ECC/HANH may, in its sole discretion, require a lower monthly payment amount.
- If the family's income increases or decreases during the term of a repayment agreement, either ECC/HANH or the family may request that the monthly payment amount be adjusted accordingly.
- Any repayment agreement between ECC/HANH and a family must be signed and dated by ECC/HANH and by the head of household and spouse/co-head (if applicable).
- All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.
- If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by ECC/HANH, ECC/HANH will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and ECC/HANH will terminate tenancy in accordance with the policies herein.
- Late and missed payments constitute default of the repayment agreement. If a family receives three delinquency notices for non-payment in a 12-month period, the repayment agreement will be considered in default, and ECC/HANH will terminate tenancy in accordance with the policies herein.
- ECC/HANH generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the resident has committed fraud.

8-I.h. GOOD STANDING FOR RESIDENT PARTICIPATION IN PROGRAMS AND ACTIVITIES

ECC/HANH Policy

A resident must be in “Good Standing” for the following: Election to office, Resident Advisory Board (RAB), Tenant Resident Council (TRC), Resident Commissioner, specialized training, and resident appointed committee; i.e. implementation committee, and/or oversight committee.

“Good Standing” is defined as the following.

- A. Current on rent without unpaid balance at any time in the past six months or current on a repayment agreement; and
- B. Have no utilities currently disconnected due to lack of tenant payment; and
- C. Are in compliance with the terms of the lease and any additional terms required to be added to that lease by Federal law. Violations of the lease must be documented by notices or other evidence of serious or repeated violations of the material terms of the lease; and
- D. Meet reasonable housekeeping standards and have no housekeeping lease violations as documented by housekeeping inspection reports or work orders reflecting a pattern of damage caused by poor housekeeping; and
- E. Have not destroyed, defaced, damaged or removed any part of an apartment or the development as documented by housekeeping inspection reports or work orders reflecting a pattern of damage or abuse.
- F. Tenants in process of relocating, ready to relocate or already relocated temporarily as the result of a RAD Conversion Activity or relocation activities as defined under Federal Universal Relocation Act requirements, must remain in good standing. If the tenant does not remain in good standing, ECC/HANH, its affiliate or instrumentality, has the right to begin lease enforcement or termination. Refer to Chapter 13, Section 13-III Terminations by ECC/HANH.

Tenants who have received a pre-termination notice and who are utilizing the grievance process to contest that notice will not be excluded from RAB/TRC participation unless and until the grievance officer/panel authorizes the termination of the tenant’s lease.

If the resident is not in Good Standing, the resident will be notified in writing.

If the resident disagrees with the notice received, a resident may request a hearing within 10 business days of receipt of ECC/HANH’s decision/action. The request must be submitted in writing and shall specify:

- Reason for the grievance; and
- Action or relief sought

Absent a determination of exception, the following policy applies to:

- a. If back rent is owed, the resident will not be able to participate until they have paid their rent in full or have established a payment plan.

For complete policy on transfers; please refer to chapter 12 of the ACOP.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD regulations require ECC/HANH to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, ECC/HANH may require additional inspections, in accordance with ECC/HANH Policy. This part contains the ECC/HANH policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

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

The lease must require ECC/HANH and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by ECC/HANH and the tenant, must be provided to the tenant and retained in the resident file.

ECC/HANH Policy

Head of household, spouse or cohead must attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

ECC/HANH must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to ECC/HANH. ECC/HANH must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

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

ECC/HANH Policy

ECC/HANH will encourage the family to participate in the move-out inspection. The family must contact ECC/HANH prior to move-out to schedule a joint inspection. If the family participates in the move-out inspection, a written statement of the unit condition and the appliances provided will be signed by the family representative and the ECC/HANH representative.

When applicable, ECC/HANH will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Annual Inspections [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. ECC/HANH shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to

conduct project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

ECC/HANH Policy

ECC/HANH inspects 100% of its developments annually. ECC/HANH will inspect a random sampling of no less than 20% of all occupied units annually using HUD’s Uniform Physical Condition Standards (UPCS) and REAC protocols as a guideline. ECC/HANH reserves the right to make more frequent inspections.

The unit will be considered to have failed HUD’s Uniform Physical Condition Standards if there are any life-threatening Health and Safety deficiencies.

Damage beyond “normal wear and tear” will be billed to the resident.

Residents whose units repeatedly display resident-caused damages are in violation of their lease and are subject to lease termination.

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.

ECC/HANH Policy

Supervisory quality control inspections will be conducted in accordance with ECC/HANH’s maintenance plan.

Special Inspections

ECC/HANH Policy

HUD representatives or local government officials review ECC/HANH operations periodically and as a part of their monitoring will inspect a sampling of the ECC/HANH’s inventory.

Special inspections may also include energy audit inspections, physical needs assessment conducted by a third-party, and other third-party inspections.

ECC/HANH staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance

If there is reasonable cause to believe an emergency exists

A copy of all reports generated during special inspections will be available for the resident’s inspection.

Emergency Inspections

ECC/HANH Policy

Housing management staff, including ECC/HANH inspectors may initiate an emergency inspection report to generate a work order if they believe that an emergency exists in the unit or on a Public Housing site. In addition, ECC/HANH staff may conduct an emergency inspection without a work order and generate a work order after the inspection has been conducted (see Entry of Premises Notice in this chapter.) Emergency repairs are to be completed within 24 hours from the time the work order is issued.

Emergency Repairs to be completed in Less than 24 Hours

The following items are to be considered emergency in nature and require immediate (less than 24 hour) response:

- Any condition determined to be an emergency by HUD REAC inspectors
- Lock-outs (with proper identification of resident) or lock-ins where safety and security is an issue
- Broken locks (where there is only one lock) entry doors, or windows which affect unit security
- Plumbing leaks that can cause flooding or damage to the unit, including pipe leaks and water coming through walls or ceilings
- Natural gas leaks or smell of fumes
- Main sewer line stoppage
- No heat or inadequate heat (unable to maintain the internal temperature at 65 degrees Fahrenheit) between October 15th and April 15th
- Electrical hazards, exposed electrical wire, including sparking wires or smoke coming from outlets or fixtures
- Electrical outage of the entire apartment or building
- Fires, fire alarm activation, or other fire safety issues
- The breakdown of an elevator if it is the only elevator in a building or if both elevators in a 2-elevator building are down. Also, if anyone is trapped in an elevator, this is considered an emergency
- No hot water in entire building on a Friday night, Saturday, or day before a holiday.

Other Inspections

ECC/HANH Policy

Building exteriors, grounds, common areas and systems will be inspected according to ECC/HANH's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

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

ECC/HANH may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of ECC/HANH entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

ECC/HANH Policy

ECC/HANH will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular inspections, the family will receive at least 5 business days written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for ECC/HANH to enter the unit.

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

ECC/HANH 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, ECC/HANH must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

ECC/HANH Policy

ECC/HANH staff will allow access to the unit to proper authorities when issues of health or safety are concerned.

Scheduling of Inspections

ECC/HANH Policy

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

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

ECC/HANH Policy

Except at move-in and move-out 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.

If, at time of inspection, a minor(s) is present with no adult household member, the inspector will not conduct the inspection, and the inspection will be rescheduled. As above, ECC/HANH will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection.

8-II.D. INSPECTION RESULTS

ECC/HANH is obligated to maintain dwelling units and the development in decent, safe and sanitary conditions and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify ECC/HANH of the damage, and ECC/HANH must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, ECC/HANH must charge the family for the reasonable cost of repairs. ECC/HANH may also take lease enforcement action against the family.

If ECC/HANH cannot make repairs quickly, ECC/HANH must offer the family standard alternative accommodations. If ECC/HANH 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.

ECC/HANH Policy

When conditions in the unit are hazardous to life, health, or safety, ECC/HANH 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

- ECC/HANH -provided 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 a functioning toilet in the unit

- Inoperable smoke detectors

- Inoperable carbon monoxide detectors

Non-emergency Urgent Repairs

ECC/HANH Policy

Urgent work orders include items that, if not repaired, pose potential threat to life, facilities, health and/or safety of residents. Urgent items must be corrected/abated within 72 hours of notification. Samples include: refrigerator not working or broken window.

If ECC/HANH is unable to make repairs within that period due to circumstances beyond ECC/HANH's control (e.g. required parts or services are not available, weather conditions, etc.) ECC/HANH will notify the family of an estimated date of completion.

The family must allow ECC/HANH access to the unit to make repairs.

Routine Repairs

ECC/HANH Policy

Most of the work that is not classified as emergency or urgent, includes: repair screen door, paint occupied unit, change air conditioning filter, general maintenance in unit.

The family must allow ECC/HANH access to the unit to make repairs.

Resident-Caused Damages

ECC/HANH Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

ECC/HANH Policy

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, ECC/HANH will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation and charges will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

ECC/HANH is required to reexamine each family's income, assets and family composition periodically, and to adjust the family's rent accordingly. ECC/HANH must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

ECC/HANH Policy

ECC/HANH has added the terms Work-Able and NonWork-Able families for purposes of biennial and triennial reexaminations.

NonWork-Able families are families where all adult family members are elderly (age 62 or more) and/or disabled.

MTW families, where all adult family members age 18 or older, don't meet the definition of a NonWork-Able family will be considered Work-Able families.

This chapter discusses both annual and interim reexaminations.

Part I: Bi/Triennial Reexaminations. This part discusses the process for conducting bi/triennial reexaminations of income and family composition.

Part II: Reexaminations for Families Paying Flat Rents. This part contains ECC/HANH's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains ECC/HANH's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part details the requirements related to when a family may and must report changes that occur between bi/triennial reexaminations, and when interim reexaminations will be conducted.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, ECC/HANH must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to bi/triennial and interim reexaminations.

PART I: BI/TRIENNIAL REEXAMINATIONS [24 CFR 982.516]

9-I.A. OVERVIEW

ECC/HANH must conduct a reexamination of family income and composition at least biennially or triennially. This includes gathering and verifying current information about family composition, income, assets and expenses, including those families on a flat rent. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for bi/triennial reexaminations, the information to be collected and verified, and bi/triennial reexamination effective dates.

When discussing the regular (annual) reexamination process, the term "bi/triennial" reexaminations will be used.

This part contains ECC/HANH's policies for conducting regular reexaminations.

9-I.B. SCHEDULING BI/TRIENNIAL REEXAMINATIONS

ECC/HANH Policy

ECC/HANH will conduct biennial reexaminations for Work-Able families. ECC/HANH will conduct triennial reexaminations for NonWork-Able families, per Initiative 3.1 – rent Simplification of the Annual MTW Plan.

ECC/HANH will begin the bi/triennial reexamination process 120 days in advance of its scheduled effective date. Generally, ECC/HANH will schedule bi/triennial reexamination effective dates to coincide with the family's anniversary date.

ECC/HANH defines the annual certification and bi/triennial certification date as 24 or 36 months from the effective date of the family's last bi/triennial reexamination or from the effective date of the family's initial examination (new admission).

For families approved to move to a new unit within ECC/HANH's jurisdiction, ECC/HANH will not perform a new (bi/tri) reexamination, unless an interim adjustment is required per ECC/HANH interim reexamination policy.

If there is any change in rent, a Notice of Rent Adjustment will be issued and this shall constitute an amendment to the family's lease.

All participants in Family Self Sufficiency (FSS) will have income certified annually by the FSS Department.

ECC/HANH may schedule a bi/triennial reexamination for completion prior to the anniversary date or scheduled bi/triennial reexamination for administrative purposes.

Notification of and Participation in the Bi/Triennial Reexamination Process

ECC/HANH is required to obtain the information needed to conduct bi/triennial reexaminations. How that information will be collected is left to the discretion of ECC/HANH. However, ECC/HANH should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

ECC/HANH Policy

Families undergoing a biennial or triennial reexamination will be required to participate in a face-to-face reexamination interview via face to face, video chat, phone or other way that is comparable and beneficial to residents and ECC/HANH. Participation is required of all adult household members. If the head of household, spouse, or cohead is unable to participate, the appointment will be rescheduled. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact ECC/HANH to request a reasonable accommodation (see Chapter 2).

Notification of bi/triennial reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview or scanned, dropped off or mailed in no later than 5 business days prior to interview to assure ECC/HANH staff members have received the packet in advance. If the packet is not received in time, the ECC/HANH representative may reschedule the scheduled video chat, or phone call if the packet has not yet been received by day of appt.

If the family is unable to attend a scheduled interview, the family should contact ECC/HANH in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, ECC/HANH will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without ECC/HANH approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and ECC/HANH may be requested to execute a certification attesting to the role and the assistance provided by any such third party.

9-I.C. CONDUCTING BI/TRIENNIAL REEXAMINATIONS

As part of the bi/triennial reexamination process, families are required to provide updated information to ECC/HANH regarding the family's income, expenses, assets and composition [24 CFR 982.551(b)].

ECC/HANH Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an ECC/HANH-designated reexamination form, a Form HUD-9886 Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days after the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. ECC/HANH will grant one 10 business day extension upon request. Exceptions may be made for granting an additional extension on a case-by-case basis.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. ECC/HAANH may use the results of the bi/triennial reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

ECC/HANH Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the biennial/triennial reexamination process.

Additionally, HUD recommends that at reexaminations ECC/HANH ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

ECC/HANH Policy

At the bi/triennial reexamination, ECC/HANH will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. ECC/HANH will use a database available to the public to verify the information provided by the tenant.

If ECC/HNH proposes to terminate assistance based on lifetime sex offender registration information, ECC/HANH must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

ECC/HANH Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, ECC/HANH will notify the household in writing of the proposed adverse action and will provide the tenant and the subject of the record, the opportunity to review 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.

Compliance with Community Service

CSSR requirements will be reviewed at time of bi-tri certification for families and individuals who are not exempt and required to complete the required 96 hours per year. Household members exempt from having to meet the CSSR will be required to certify exemption at time of biennial/triennial recertification. This change relieves staff of the additional burden of annual tracking, and allowing families to benefit from the full extent of Rent Simplification as written. Tracking in Elite will only occur at time of bi/tri certifications. (See Chapter 11)

LIPH Community Service Significant Change MTW FY20 Amendment #1:

Community Service requirements will not be required for families who experience a decrease in income due to loss of employment or decrease in hours as a result of COVID19 and any similar pandemic or national, state or local emergency that affects a significant number of families in the community. Residents will not be expected to make up these hours. The requirement will be reinstated when the stay at home and social distancing requirements are lifted. The 96

community service hours per year will be calculated by 8 hours a month and families will not be required to make up hours during months affected. ECC/HANH will establish time period for hold on CSSR as needed.

9-I.D. EFFECTIVE DATES

As part of the regular reexamination process, ECC/HANH must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

ECC/HANH Policy

In general, an *increase* in the tenant rent that results from a regular reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the regular reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the regular reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from a regular reexamination may result in an interim reexamination, or if not applicable, will take effect on the family's anniversary date. See Part III of this chapter for interim reexamination policies.

If the family causes a delay in processing the regular reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by ECC/HANH by the date specified, and this delay prevents ECC/HANH from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that ECC/HANH offer all families the choice of paying income-based rent or flat rent at least annually. ECC/HANH's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, ECC/HANH must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. ECC/HANH is only required to provide the amount of income-based rent the family might pay in those years that ECC/HANH conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, ECC/HANH must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains ECC/HANH's policies for conducting reexaminations of families who choose to pay flat rents.

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

Frequency of Reexamination

ECC/HANH Policy

Under ECC/HANH's MTW Plan, ECC/HANH will offer the family the choice between flat and income-based rent upon admission and at regular reexaminations thereafter.

According to the Annual MTW Plan, Initiative 3.1 – Rent, as of FY 2020 the Flat Rent option certification form will only be signed at time of bi-tri certification, however, families will have the opportunity to switch to the Flat rent once a year. Annual notice must go out to families, but signature will not be required except for at time of scheduled bi/tri certification. This change is in line with efforts to streamline the certification process; relieving staff of the additional burden and allowing families to benefit from the full extent of Rent Simplification as written.

Reexamination Policies

ECC/HANH Policy

In conducting full reexaminations for families paying flat rents, ECC/HANH will follow the policies used for the biennial/triennial reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted at least once every 3 years for families paying flat rents. In the years between full reexaminations, regulations require ECC/HANH to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the regular reexamination process, except that ECC/HANH does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

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

ECC/HANH Policy

For families paying flat rents, updates will be conducted at the regularly scheduled (biannual or triennial) reexamination.

In scheduling the annual update, ECC/HANH will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B.

Conducting Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

ECC/HANH Policy

The family will be required to provide the flat rent update at the regularly scheduled (bi/triennial) reexamination. However, if ECC/HANH determines that an interview is warranted before a regularly scheduled reexamination, the family may be required to attend.

Notification of the reexamination update for flat rent will be sent by first-class mail and will inform the family of the information and documentation that must be provided to ECC/HANH. The family will have 10 business days to submit the required information to ECC/HANH. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. ECC/HANH will accept required documentation by mail or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, ECC/HANH will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to ECC/HANH.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. ECC/HANH may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

ECC/HANH Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, ECC/HANG must determine compliance with the community service requirement. See Chapter 11 for ECC/HANH policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and ECC/HANH policies define the types of information about changes in family circumstances that must be reported, and under what circumstances ECC/HANH must process interim reexaminations to reflect those changes. HUD regulations also permit ECC/HANH to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. ECC/HANH must complete the interim reexamination within a reasonable time after the family's request.

ECC/HANH Policy

Per ECC/HANH's MTW Plan, there are limitations in interim reexaminations. See Section 9-III.C.

This part includes HUD and ECC/HANH policies that describe the changes families are *required* to report, the changes families *may choose* to report, and how ECC/HANH will process both ECC/HANH- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

ECC/HANH must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, ECC/HANH has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

ECC/HANH Policy

All families, those paying income-based rent as well as flat rent, are required to get permission from the Housing Manager to add anyone, over the age of 18 to a household and to report changes in family composition. A family's rent is recalculated if the addition or subtraction of a household member results in an income change of more than \$200.00 per month.

ECC/HANH will conduct interim reexaminations to account for:

- Change in family composition that affects the bedroom size of two degrees or more.
- The addition of a family member 18 years of age or older.
- Change in family composition that causes the family to move from one income tier to another with a higher rent schedule.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require ECC/HANH approval. However, the family is required to promptly notify ECC/HANH of the addition [24 CFR 966.4(a)(1)(v)].

ECC/HANH Policy

The family must inform ECC/HANH of the birth, adoption, or court-awarded custody of a child within 30 days with proper documentation. Documentation can include, but is not limited to; long form birth certificate, social security card, court documentation, and/or documents from the Department of Social Services.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request ECC/HANH approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

ECC/HANH may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which ECC/HANH consent will be given or denied. Under such policies, the factors considered by ECC/HANH may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- ECC/HANH's obligation to make reasonable accommodation for persons with disabilities.

ECC/HANH Policy

1. Families must request ECC/HANH approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by ECC/HANH no less than 10 business days prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), ECC/HANH will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by ECC/HANH. Exceptions will be made on a case-by-case basis.

2. ECC/HANH will not approve the addition of a new family or household member unless the individual meets ECC/HANH's eligibility and tenant selection criteria (see Chapter 3), including the Criminal History Report, and documentation requirements (See Chapter 7, Part II), with the exception of the Community Reunification Program

and the Community Re-Entry Pilot Program (see paragraph 3, below, and section 4-III.B.)

3. ECC/HANH will allow family members, who would otherwise be ineligible, to be added to the lease through the Community Reunification Program. The Community Reunification Program describes ECC/HANH's policy of waiving the criminal background screening criteria, with the exception of the HUD mandatory denial of admission, for individuals who seek to join a family member's existing lease. Credit screening is waived for the elderly and disabled. Family members for the Community Reunification Program will be screened for suitability for housing by reviewing compliance with probation and/or parole, employment or educational programs and treatment and case management plans. Family members will be added during an interim recertification and will sign a lease addendum demonstrating willingness for compliance.
4. A resident eligible for transfer to a larger or smaller unit as the result of approved changes in household composition may request a transfer and be placed on the transfer list effective the date the transfer request is approved. Temporary custody of minors for less than 12 months in duration is not eligible for transfer to a larger or smaller unit as the result of approved changes in household composition.
5. Foster children may be considered a part of the household provided that the foster parent(s) has been granted a license through the appropriate Child and Family Services agency and that the addition to the household does not violate ECC/HANH's occupancy standards for the current leased unit. Foster parents may apply for a transfer to a larger unit only if the foster placement is expected to last more than twelve months.

For individuals ineligible for the Community Reunification Program and the Community Re-Entry Pilot Program, if ECC/HANH determines that an individual does not meet ECC/HANH's tenant selection criteria, including the Criminal History Report, or documentation requirements, ECC/HANH will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

ECC/HANH will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

ECC/HANH Policy

If a family member ceases to reside in the unit, the family must inform ECC/HANH within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

Family members age 18 and over who move from the dwelling unit to establish new households shall be removed from the lease. The resident must notify ECC/HANH of the move-out within 10 business days of its occurrence.

These individuals may not be readmitted to the unit and must apply as a new applicant for placement on the waiting list. Return of an adult family member that necessitates a transfer to a larger unit will only be considered as a reasonable accommodation or in case of a medical hardship. If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform ECC/HANH within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because ECC/HANH has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, ECC/HANH may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

ECC/HANH-Initiated Interim Reexaminations

ECC/HANH Policy

ECC/HANH will conduct interim reexaminations in each of the following instances:

If at the time of the bi/triennial reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), ECC/HANH will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the bi/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, ECC/HANH will conduct an interim reexamination.

ECC/HANH may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

ECC/HANH will *not* conduct an interim reexamination:

- For families receiving the Earned Income Disallowance (EID) except for new employment. ECC/HANH will not conduct an interim at the start, during or conclusion of the second 12 month exclusion period (50 percent phase-in period).

Example 1: Mr. Quinn works in construction 8 months of the year, earning \$1,500 a month. He is paid cash. The remaining months he receives no income.

At Mr. Quinn's biennial reexamination, ECC/HANH annualized his income as follows: $\$1,500 \times 8 = \$12,000$.

No interim will be conducted if Mr. Quinn was working at the time of his biennial reexamination and then reports that income stopped due to this regular layoff. Nor will an interim be conducted when Mr. Quinn resumes work.

Example 2: Ms. Marie works as a school bus driver 10 months out of the year earning \$15,000 from this employment. The remaining 2 months, she draws \$1,500 a month in unemployment benefits. At her triennial reexamination, ECC/HANH calculated Ms. Marie's annual income to be \$18,000 ($\$15,000 + \$3,000 (\$1,500 \times 2)$).

No interim will be conducted when Ms. Marie starts or stops working.

- When ECC/HANH averaged income across 12 months when annualizing income for a seasonal employee (see section 6-I.C).
- Income from the previous year may be analyzed to determine the amount to anticipate when third party verification is not available or reliable.

Resident-Initiated Interim Reexaminations

ECC/HANH must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give ECC/HANH the discretion to determine the circumstances under which families will be required to report changes affecting income.

ECC/HANH Policy

Interim rents remain in place until the next scheduled reexamination. If a family experiences an increase in income it is not necessary for the family to report this increase in income until the next scheduled annual certification date.

Households receiving a requested interim rent reduction must report any subsequent income increase to ECC/HANH within thirty (30) days of occurrence. Failure to report the change within thirty (30) days results in retroactive rent changes, and depending on the severity of the circumstances, lease termination.

Seasonal workers who are employed for a period of time less than 12 months annually will have their rent calculated over a 12 month period using the 9 or 10 months of income earned. During the months the worker is not actively working, the family will not be able to request a rent reduction as the rent has already been adjusted over a 12 month period.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. ECC/HANH must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

ECC/HANH Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, ECC/HANH will note the information in the tenant file, but will not conduct an interim reexamination. This includes a family reporting increased income below \$200 per month from a non-wage source between bi/triennial reexaminations.

If a family reports a change that it was not required to report and that would result in a decrease in the tiered rent (TTP), ECC/HANH will conduct an interim reexamination. See Section 9-III.D. for effective dates.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

ECC/HANH Policy

The family may notify ECC/HANH of changes either orally or in writing. ECC/HANH will require the family to submit the changes in writing by completing an interim packet supplied by ECC/HANH.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if ECC/HANH determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, ECC/HANH will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from ECC/HANH. This time frame may be extended for good cause with ECC/HANH approval. ECC/HANH will accept required documentation by mail, by fax, or in person.

Effective Dates

ECC/HANH must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

ECC/HANH Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenant rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, ECC/HANH must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in ECC/HANH's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

ECC/HANH Policy

Unless ECC/HANH is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires ECC/HANH to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When ECC/HANH redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of ECC/HANH's schedule of Utility Allowances for families in ECC/HANH's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, ECC/HANH must notify the tenant that the tenant may ask for an explanation stating the specific grounds of ECC/HANH's determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under ECC/HANH's grievance procedure [24 CFR 966.4(c)(4)].

ECC/HANH Policy

The notice to the family will include the annual income and tiered rent (TTP) amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, ECC/HANH may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, ECC/HANH may discover errors made by the ECC/HANH. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains ECC/HANH's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of ECC/HANH to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of ECC/HANH.

The chapter is organized as follows:

Part I: Service and Assistive Animals. This part explains the difference between service animals, assistance animals, and pets, and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: SERVICE ANIMALS AND ASSISTIVE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;
Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for a service animal or an assistive animal may be denied, and also establishes standards for the care of service and assistive animals.

Notice FHEO 2020-01 was published January 28, 2020 the notice explains the difference between service animals and assistive animals. While the ADA applies to the premises of public housing agencies and to "public accommodations" such as stores and movie theaters, it does not apply to private-market rental housing. Therefore, in public housing ECC/HANH must evaluate a request for a service animal under both the ADA and the Fair Housing Act. Service animals are limited to trained dogs.

Neither service animals nor assistive animals are pets, and thus, are not subject to ECC/HANH's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

10-I.B. APPROVAL OF SERVICE, ASSISTANCE AND SUPPORT ANIMALS

Assistance, support and service animals for persons with disabilities are not subject to the ECC/HANH pet policy per 24 CFR § 5.303 and 24 CFR § 960.705. These animals are not considered pets. Rather, they are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.

For an animal to be excluded from the pet policy and be considered a service animal, the person seeking to use and live with the animal must have a disability; and the person seeking to use and live with the animal must have a disability-related need for the service or assistance the animal provides.

Notice FHEO 2020-01 states that ECC/HANH should first evaluate the request as a service animal under the ADA. ECC/HANH may only ask whether the dog is a service animal required due to a disability, and what tasks the animal has been trained to perform.

ECC/HANH cannot require proof of training or certification for a service animal, even if the disability and/or tasks performed are not readily apparent. If the disability and/or tasks performed are not readily apparent, no further inquiries may be made.

ECC/HANH may only deny a request for a service animal in limited circumstances:

- The animal is out of control and the handler does not take effective action to control it
- The animal is not housebroken, or
- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies

There are two types of assistance animals:

- (1) service animals, and
- (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities, which are referred to as “support animals.”

A service animal must be permitted in all areas of the facility where members of the public are allowed.

If the animal does not qualify as a service animal under the ADA, ECC/HANH must next determine whether the animal would qualify as an assistive animal under the reasonable accommodation provisions of the Fair Housing Act. Such assistive animals may include animals other than dogs.

See [FHEO-2020-01](#) for more information and best practices.

A person with a disability is not automatically entitled to have an assistive animal. Reasonable accommodation requires that there is a relationship between the person’s disability and his or her need for the animal [PH Occ GB, p. 179].

ECC/HANH may not refuse to allow a person with a disability to have an assistive animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistive animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistive or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

ECC/HANH's refusal to permit persons with a disability to use and live with an assistive animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

ECC/HANH has the authority to regulate service animals and assistive animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

ECC/HANH Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered an assistive animal, there must be a person with disabilities in the household, and the family must request and ECC/HANH approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

Residents must care for service animals and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

Requests for reasonable accommodation for assistance animals must be processed in accordance with the Fair Housing and Equal Opportunity section in the Fair Housing and Nondiscrimination Requirements chapter. The reasons for denying an accommodation request include, but are not limited, to:

- The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation; or
- The specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

No deposit is charged for assistance animals. There are no height, weight, or breed limits for assistance animals, and assistance animals may accompany the resident anywhere the resident is allowed to go.

Assistance animals may, however, be denied access to any area or facility if the animal is out of control and its handler does not control it; or the animal has a history of eliminating in common areas; or the animal in question poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority ECC/HANH may have to regulate service animals and assistive animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

ECC/HANH Policy

Residents must care for service animals and assistive animals in a manner that complies with state and local laws, including anti-cruelty and leash laws.

Residents must ensure that service animals and assistive animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of a service animal or assistive animal violates these policies, ECC/HANH will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If ECC/HANH determines that no such accommodation can be made, ECC/HANH may withdraw the approval of a particular service or assistive animal.

All assistance animals must be reported to ECC/HANH. Such reporting shall consist of providing the following:

- Basic information about the animal (type, age, description, name, etc.).
- A picture of the animal for identification purposes;
- Veterinarian written verification of inoculations against rabies and certification of spay/neuter;
- Inoculations and license of the animal must be kept current, in accordance with city regulation; and
- The animal owner's signature on a copy of the Assistance Animal Lease Addendum

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

ECC/HANH may require registration of the pet with ECC/HANH [24 CFR 960.707(b)(5)].

ECC/HANH Policy

All pets must be approved in advance by ECC/HANH management. To receive ECC/HANH approval of a pet, the pet owner should provide the following:

Evidence that the pet meets the standards described below in this policy

Evidence that the pet has been spayed or neutered

Evidence that the pet has been properly immunized

Names, addresses, and telephone numbers of 2 adult individuals who will take immediate full responsibility of the pet if needed.

Pet deposit (see below)

The terms of this Pet Policy are an addendum to ECC/HANH's lease and thereby are basic lease requirements.

ECC/HANH staff will photograph the pet for verification of the pet approved under this policy.

Refusal to Register Pets

ECC/HANH Policy

ECC/HANH will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration bi/triennially as needed, per ECC/HANH discretion

The applicant or resident 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

ECC/HANH 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 ECC/HANH refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of ECC/HANH'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 ECC/HANH's grievance procedures.

Pet Agreement

ECC/HANH Policy

Residents who have been approved to have a pet must enter into a pet agreement with ECC/HANH 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 ECC/HANH'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 ECC/HANH's pet policy and applicable house rules may result in the withdrawal of ECC/HANH approval of the pet or termination of tenancy.

Pet Renewal

Residents who have been approved to have a pet must renew authorization to own that pet through a written renewal agreement with ECC/HANH at regular reexamination.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

ECC/HANH may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that ECC/HANH classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

ECC/HANH may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorizes ECC/HANH to define the term [24 CFR 5.306(2)].

ECC/HANH Policy

Common household pet means a domesticated animals such as a dog, cat, bird, rodent (guinea pig, hamster, or gerbil), fish, frog, or turtle that are traditionally kept in the home for pleasure rather than for commercial use.

The following animals are not considered common household pets:

- Reptiles
- Rodents (except as listed above)
- Rabbits
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

Pet Restrictions

ECC/HANH Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, Rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal normally found in the wild (raccoons, skunks, squirrels etc.) and also pigeons, chickens, ducks, and birds of prey (hawks, falcons, etc.), rabbits, and domestic farm animals.

Exotic animals not normally considered a household pet

Any animal not permitted under state or local law or code

Any animal whose adult weight will exceed 25 pounds.

Dogs such as:

- Pit Bulls,
- Rottweilers,
- Doberman Pinchers,
- German Shepherds,
- Bull Dogs or
- breeds not permitted under state or local law or code.

Reptiles such as:

- snakes,
- alligators,
- lizards,
- iguanas,
- chameleons, etc.

Farm animals such as:

- chickens,
- pigs,
- cows,
- mules,
- horses, etc.

Wild animals such as:

- lions,
- leopards,
- bears,

- tigers,
- wolves, etc.

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code.

Number of Pets

ECC/HANH Policy

Residents may own a maximum of 1 pet.

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.

Other Requirements

ECC/HANH Policy

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.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with ECC/HANH policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

ECC/HANH Policy

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. Pet owners are not allowed to leave a pet unattended outside at any time. They must be 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 project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

ECC/HANH may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

ECC/HANH may direct initial tenant moves as may be necessary to establish pet and no-pet areas. ECC/HANH 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. ECC/HANH may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

ECC/HANH may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

ECC/HANH Policy

ECC/HANH has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, ECC/HANH has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

Pet owners must maintain pets in accordance with ECC/HANH policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations (24 CFR § 5.315; 24 CFR § 960.707(a)).

ECC/HANH Policy

The pet owner shall be responsible for the removal of waste from all outdoor and common areas by placing it in a sealed plastic bag and disposing of it in a container provided by ECC/HANH.

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 must not be disposed of by being flushed through a toilet as this causes damage to the sewage system.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

ECC/HANH Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

ECC/HANH Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

ECC/HANH Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage ECC/HANH property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

ECC/HANH Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify ECC/HANH and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

ECC/HANH Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by ECC/HANH.

Pet Rule Violations

ECC/HANH Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

ECC/HANH Policy

If the pet owner and ECC/HANH are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by ECC/HANH, ECC/HANH may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for ECC/HANH's determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

ECC/HANH Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if ECC/HANH after reasonable efforts cannot contact the responsible party, ECC/HANH may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

ECC/HANH Policy

ECC/HANH 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

Emergencies

ECC/HANH Policy

ECC/HANH 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 ECC/HANH to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes ECC/HANH's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

ECC/HANH may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by ECC/HANH on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as ECC/HANH may require. ECC/HANH may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

ECC/HANH Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is the higher of the family's total tenant payment or \$50.00, and must be paid in full before the pet is brought on the premises. Pet deposits will not exceed \$300.

Refund of Deposit [24 CFR 5.318(d)(1)]

ECC/HANH may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. ECC/HANH must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

ECC/HANH Policy

ECC/HANH will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

ECC/HANH will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, ECC/HANH will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

ECC/HANH Policy

All reasonable expenses incurred by ECC/HANH as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address ECC/HANH's ability to impose charges for house pet rule violations. However, charges for violation of ECC/HANH pet rules may be treated like charges for other violations of the lease and ECC/HANH tenancy rules.

ECC/HANH Policy

A separate pet waste removal charge of \$25.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, ECC/HANH may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes ECC/HANH's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

ECC/HANH may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

ECC/HANH requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. ECC/HANH must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

ECC/HANH Policy

Pet owners are required to pay a pet deposit equal to the security deposit, up to \$300, in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

ECC/HANH Policy

ECC/HANH will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

ECC/HANH will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, ECC/HANH will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

ECC/HANH may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

ECC/HANH Policy

ECC/HANH does not require pet owners to pay a non-refundable nominal pet fee.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring ECC/HANH to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and ECC/HANH's policies related to these topics in two parts:

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

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

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

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

ECC/HANH must establish community service and self-sufficiency requirements in accordance with the Quality Housing and Work Responsibility Act of 1998 (P.L. 105-276).

In this ACOP, ECC/HANH should describe eligible activities, responsibilities of both ECC/HANH and residents, and how compliance is documented. All PHAs operating a Public Housing Program, including PHAs participating in the Moving to Work demonstration, must comply with the CSSR.

ECC/HANH Policy

ECC/HANH is a Moving to Agency and according to Initiative 3.1 – Rent Simplification:

Community Service Requirement (LIPH)

CSSR requirements will be reviewed at time of bi-tri certification for families and individuals who are not exempt and required to complete the required 96 hours per year. Household members exempt from having to meet the CSSR will be required to certify exemption at time of bi-tri certification. This change relieves staff of the additional burden of annual tracking and allowing families to benefit from the full extent of Rent Simplification as written. Tracking in Elite will only occur at time of bi/tri certifications.

In addition to the applicable regulations, ECC/HNH should reference the following PIH Notices when establishing CSSR policies and rules in the ACOP:

- Notice PIH-2015-12 (HA): Administering the Community Service and Self-Sufficiency Requirement
- Notice PIH-2016-06 (HA): Administering the Self-Certification Flexibility when Verifying Community Service and Self Sufficiency Requirement (CSSR) Compliance when drafting CSSR policies,

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

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

ECC/HANH must provide the family a copy of the CSSR policy describing, at a minimum, the service requirement, the process for claiming exempt status and how ECC/HNH will verify compliance (24 CFR § 960.605(c)).

11-I.B APPLICABILITY

ECC/HANH is mandated by Section 6(1) of the United States Housing Act of 1937 as amended by Section 512 of the Quality Housing and Work Responsibility Act (QHWRA) to implement and administer a Public Housing Community Service and Self-Sufficiency requirement for all non-exempt public housing residents 18 years and older to perform at least eight (8) hours per month in community service or an economic self- sufficiency program.

ECC/HANH may not renew or extend any lease for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement and failed to comply with this requirement.

ECC/HANH will provide the family with a copy of the Community Service and Self-Sufficiency Requirement Policy at admission, at lease renewal, when a family member is determined to be subject to the community service and self-sufficiency requirement during the lease term, and at any time upon the family's request.

In administering the community service and self-sufficiency requirement, ECC/HANH will comply with all applicable nondiscrimination and equal opportunity requirements.

11-I.C. REQUIREMENTS

Each adult resident of ECC/HANH, (18 years or older), who is not exempt, must [24 CFR 960.603(a)]:

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

- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed at 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

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

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions

ECC/HANH Policy

ECC/HANH will provide a form to allow a Disabled Person (HUD definition) to self-certify whether they are able to comply. If resident self-certifies they are unable to comply, they will be considered exempt. At the regular reexamination, the resident will be given this opportunity to certify.

If resident self-certifies that they are able to comply with the requirement, they will not be considered exempt. The resident may self-certify at any time during the lease term that they are unable to comply due to a disability as defined above.

- Is a primary caretaker of such an individual

ECC/HANH Policy

ECC/HANH will require the caretaker to self-certify that s/he is the primary caretaker of the Disabled Person who is unable to comply with the community service requirement.

If the Disabled Person is an adult, s/he will be required to self-certify that the person stating that s/he is the caregiver is his or her primary caregiver.

- Is engaged in work activities

ECC/HANH Policy

ECC/HANH will consider 20 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which ECC/HANH is located, including a state-administered welfare-to-work program
 - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in

which the ECC/HANH is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

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

ECC/HANH Policy

Example of attendance at a high school includes but is not limited to:

25-year old family member (including head of house or spouse) earning their G.E.D.

- 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

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

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

Eligible community service activities include, but are not limited to, 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 ECC/HANH 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
- ECC/HANH housing to improve grounds or provide gardens (so long as such work does not alter ECC/HANH's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so a parent may volunteer

ECC/HANH may form its own policy in regard to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

ECC/HANH Policy

In addition to the above, for purposes of satisfying the community service requirement, ECC/HANH has included the following as eligible community service volunteer work:

Work with a nonprofit organization that serves ECC/HANH residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H program, PAL, Garden Center, Community clean-up programs, beautification programs, other youth or senior organizations, on or off ECC/HANH property;

Service as an ECC/HANH Building Attendant, or other volunteer work at ECC/HANH;

Helping resident organizations or neighborhood groups with special projects, such as Food Banks and community gardens;

Unpaid care for the children of other residents so a parent may volunteer for any local agency or program;

Volunteer work at voting booths for the Registrar of Voters (this is not considered a political activity):

Serving as an officer of a TRC or other resident organization;

Performing community service on ECC/HANH property or with or through ECC/HANH programs to assist with or enhance work done by an ECC/HANH employee; or

Any other relevant volunteer activity as approved by ECC/HANH.

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

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

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

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

ECC/HANH must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for ECC/HANH verification of exempt status. ECC/HANH must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

ECC/HANH Policy

ECC/HANH will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

Three months prior to the annual anniversary date, ECC/HANH 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.

11-I.D. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

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

ECC/HANH Policy

ECC/HANH will review and verify family compliance with service requirements three months prior to the anniversary date.

Determination

Determination of Exemption Status

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

ECC/HANH Policy

At least three months prior to the anniversary date, ECC/HANH 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 ECC/HANH 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, ECC/HANH will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

ECC/HANH must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, ECC/HANH must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

ECC/HANH Policy

ECC/HANH monitors compliance with community service. Approximately 45 days prior to the end of the lease term, ECC/HANH 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 ECC/HANH required documentation form(s).

The family must also sign Attachment B, Annual Renewal, of Notice 2015-12, certifying that they understand the requirement.

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

ECC/HANH must provide written notification to the tenant of the non-compliance which must include a brief description of the finding of non-compliance with the CSSR and a statement that

ECC/HANH will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with ECC/HANH, or the family provides written assurance that is satisfactory to ECC/HANH explaining that the tenant or other noncompliant resident no longer resides in the unit.

Additionally, ECC/HANH's notice to the tenant must state that the tenant may request a grievance hearing on the ECC/HANH determination, in accordance with 24 CFR Part 966, subpart B, and the tenant may exercise any available judicial remedy to seek timely redress for ECC/HANH's nonrenewal of the lease because of such determination (24 CFR § 960.607(b)).

If the tenant or another family member has violated the service requirement, ECC/HANH may not renew the lease upon expiration of the term unless (24 CFR § 960.607(c)) the tenant, or other noncompliant family member, enters into a written agreement with ECC/HANH, as prescribed by ECC/HANH, to remedy the noncompliance by completing the additional service hours needed to make up the total number of hours required over the 12-month term of the new lease, and all other nonexempt family members are currently complying with the service requirement or are no longer residing in the unit.

If a family member refuses to sign a written work-out agreement or fails to comply with the terms of the work-out agreement, ECC/HANH must initiate termination of tenancy proceedings at the end of the current 12-month lease since the family is failing to comply with lease requirements.

When initiating termination of tenancy proceedings, ECC/HANH will provide the following procedural safeguards in accordance with its grievance procedure (24 CFR § 966.53(c)):

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

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform the required total of community service hours for the months he or she is subject to the requirement before the end of the lease term (anniversary date). At lease-up, the CSSR requirement begins the month following the month in which the resident leases up.

For existing residents, the CSSR requirement begins the month following the month in which the resident becomes subject to CSSR.

Example 1: A public housing resident turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- He must perform 48 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: A public housing resident leaves her job on 9/20/15 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/15, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/16.

- This resident must perform 72 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Change in Status between Annual Determinations

ECC/HANH Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to ECC/HANH within 10 business days.

Within 10 business days of a family reporting such a change, or ECC/HANH determining such a change is necessary, ECC/HANH 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 the month the resident becomes subject to community service.

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to ECC/HANH within 10 business days. Any claim of exemption will be verified by ECC/HANH in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or ECC/HANH determining such a change is necessary, ECC/HANH will provide the family written notice that the family member is no longer subject to the community service requirement, if

ECC/HANH is able to verify the exemption. The exemption will be effective immediately.

11-I.E DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

ECC/HANH must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

ECC/HANH Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3.

ECC/HANH will provide a completed copy to the family and will keep a copy in the tenant file.

ECC/HANH will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

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

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by ECC/HANH of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than ECC/HANH, a family member who is required to fulfill a service requirement must provide certification to ECC/HANH, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

ECC/HANH Policy

If anyone in the family is subject to the community service requirement, ECC/HANH will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

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

Families will be required to submit the documentation to ECC/HANH, upon request by ECC/HANH.

If ECC/HANH has reasonable cause to believe that the certification provided by the family is false or fraudulent, ECC/HANH has the right to require third-party verification.

11-I.F. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

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

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

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

ECC/HANH Policy

The notice of noncompliance will be sent at least 30 days prior to the end of the anniversary date. The family will have 10 business days from the date of the notice of noncompliance to enter into a written Work-Out Agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

The Work-Out Agreement will be accompanied by a schedule, helping the resident identify how he or she will schedule the required CSSR hours in the upcoming twelve months. The resident is not required, however, to follow the schedule, as long as the noncompliance is cured.

Example: A resident owes 50 hours from most recent twelve months. Work-Out Agreement stipulates that 146 hours must be completed by end of next lease term. Accompanying schedule helps the resident map out monthly hours and means to achieve compliance with CSSR in the upcoming twelve months. The schedule is not binding. By the end of the next twelve months, the resident must complete the required aggregate hours as per the Work-Out Agreement.

If the family reports that a noncompliant family member is no longer in the unit, documentation must be provided that the family member has actually vacated the unit before ECC/HANH will agree to continued occupancy of the family. Documentation consists of a certification signed by the head of household and evidence of the family member's current address.

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

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

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

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

ECC/HANH Policy

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

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident who signed the Work-Out Agreement no longer resides in the unit, or to request a grievance hearing.

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

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

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

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

ECC/HANH Implementation of Community Service

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

ECC/HANH Policy

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

If a disabled resident certifies that s/he is able to perform community service, ECC/HANH will ensure that requests for reasonable accommodation are handled in accordance with the policies in Ch 2.

ECC/HANH Program Design

ECC/HANH may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

ECC/HANH Policy

ECC/HANH will attempt to provide the broadest choice possible to residents as they choose community service activities. ECC/HANH's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. ECC/HANH will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

ECC/HANH will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, ECC/HANH will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

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

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

If ECC/HANH has a ROSS program, a ROSS Service Coordinator, or an FSS program, ECC/HANH will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with ECC/HANH coordinators will satisfy community

service activities and ECC/HANH coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1:

Housing Authority of the City of New Haven

COMMUNITY SELF-SUFFICIENCY & SERVICE REQUIREMENT (CSSR) POLICY

A. Background

In 1998, Congress passed a housing law that requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the Public Housing Lease.

B. Definitions

Community Service - volunteer work which includes, but is not limited to:

- Work at a local institution including but not limited to: school, childcare center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.;
- Work with a non-profit organization that serves ECC/HANH residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls clubs, 4-H program, PAL, Garden Center, Community clean-up programs, beautification programs, other youth or senior organizations;
- Service as an ECC/HANH Building Attendant;
- Work at ECC/HANH to help improve physical conditions;
- Work at ECC/HANH to help with children's programs;
- Work at ECC/HANH to help with senior programs;
- Helping resident organizations or neighborhood groups with special projects, such as Food Banks and community gardens;
- Serving as an officer of a TRC or other Resident organization, serving as a Board Member of VOICES, or serving on another Resident Advisory Board;
- Caring for the children of other residents so they may volunteer;
- Volunteer work at voting booths for the Registrar of Voters (this is not considered a political activity);
- Unpaid care for the children of other residents so parent may volunteer for any local agency or program;
- Community service on ECC/HANH property or with or through ECC/HANH programs to assist with or enhance work done by an ECC/HANH employee; and
- Any other relevant volunteer activity as approved by ECC/HANH.
- **NOTE: Political activity is excluded.**

Self Sufficiency Activities - activities that include, but are not limited to:

- Job readiness programs;
- Job training programs;
- Substance abuse or mental health counseling;
- English proficiency or literacy (reading) classes;
- Apprenticeships;
- Budgeting and credit counseling;
- Any kind of class that helps a person toward economic independence; and
- Full time student status at any school, college or vocational school.

Exempt Adult - 24 CFR 960.601(b), Notice PIH 2015-12 – an adult member of the family who

- Is 62 years of age or older;
- Is blind or disabled (HUD/Social Security definition) and certifies that because of this disability he or she is unable to comply with the community service requirement;
- Is the primary caretaker of such an individual;
- Is working at least 20 hours per week (see definition of work below);
- Is able to meet requirements to receive TANF; or
- Is a member of a family receiving TANF and is not in noncompliance, including receiving SNAP.

Work Activities

As it relates to an exemption from the community service requirement, *work activities* means 20 hours of:

- Unsubsidized employment
- Subsidized private sector or 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 an individual who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at a high school (secondary school) or in a course of study leading to a G.E.D.

C. Community Self-Sufficiency & Service (CSSR) Requirements

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. The required community service or self-sufficiency activity may be completed at 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed annually.
3. Family obligations
 - At lease execution and regular reexamination, all adult members (18 or older) of a public housing resident family must:
 - a) Provide documentation that they are exempt from CSSR requirement if they qualify for an exemption, except for those aged 62 and over, and
 - b) Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the CSSR requirement will result in nonrenewal of their lease.
 - At each regular reexamination, non-exempt family members must present a completed documentation form (to be provided by ECC/HANH) of activities performed over the previous twelve (12) months. This form will include places for signatures of supervisors, instructors, or counselors certifying to the number of hours contributed.
 - If a family member is found to be noncompliant at reexamination, he/she and the Head of Household will sign a work-out agreement with ECC/HANH to make up the deficient hours over the next twelve (12) month period.
5. Change in exempt status:
 - If, during the twelve (12) month period, a non-exempt person becomes exempt, it is his/her responsibility to report this to ECC/HANH and provide documentation of such.
 - If, during the twelve (12) month period, an exempt person becomes non-exempt, it is his/her responsibility to report this to ECC/HANH. ECC/HANH will provide the person with the Recording/Certification documentation form and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority obligations

1. To the greatest extent possible and practicable, ECC/HANH will:
 - Provide names and contacts at agencies that can provide opportunities for residents, including disabled, to fulfill their SSS obligations; and
 - Provide in-house opportunities for volunteer work or self-sufficiency programs.

2. ECC/HANH will provide the family with exemption verification forms and Certification documentation forms and a copy of this policy at lease execution and regular reexamination.
3. ECC/HANH will make the final determination as to whether or not a family member is exempt from the CSSR requirement. Residents may use ECC/HANH's Grievance Procedure if they disagree with ECC/HANH's determination.
4. Noncompliance of Family Member:
 - At least thirty (30) days prior to regular reexamination/anniversary date, ECC/HANH will begin reviewing the exempt or non-exempt status and compliance of family members;
 - Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term. If ECC/HANH finds a tenant is noncompliant with CSSR, then ECC/HANH will provide written notification to the tenant of the noncompliance which will include:
 - A. A brief description of the finding of non-compliance with CSSR.
 - B. A statement that ECC/HANH will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with ECC/HANH or the family provides written assurance that is satisfactory to ECC/HANH explaining that the tenant or other noncompliant resident no longer resides in the unit.
 - If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, ECC/HANH will terminate tenancy in accordance with the public housing lease.
5. Continued Noncompliance and Enforcement Documentation:
 - If a family member refuses to sign a written work-out agreement, or fails to comply with the terms of the work-out agreement, ECC/HANH is required to initiate termination of tenancy proceedings at the end of the anniversary date due to the fact that the family is failing to comply with lease requirements.
 - The family may use ECC/HANH's Grievance Procedure to protest the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident

Date

Resident

Date

Resident

Date

Resident

Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

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

Section 1416 (excerpt):

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

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

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

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

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

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

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the ECC/HANH'S's transfer policy, based on HUD regulations, HUD guidance, and ECC/HANH policy decisions.

This chapter describes HUD regulations and ECC/HANH policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

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

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

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

ECC/HANH may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

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

ECC/HANH must have specific policies in place to deal with acceptable transfer requests.

ECC/HANH Policy

ECC/HANH's transfer list is an agency-wide transfer list and not a site-based list. A separate transfer list is maintained for scattered site transfers.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by ECC/HANH.

In the case of a structural emergency, it may be unlikely that ECC/HANH will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, ECC/HANH should find alternative accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

12-I.B. EMERGENCY TRANSFERS

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

ECC/HANH Policy

Emergency transfers must be approved by the Executive Director/President or designee.

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours.

Examples of such unit or building conditions would include but are not limited to:

- Fire damage
- Flooding
- Severe structural damage
- Gas leak
- No heat in the unit or building during the winter
- No water or no hot water
- Toxic contamination
- Serious water leaks

ECC/HANH is not required to give prior notice of an emergency transfer.

Emergency conditions that occur due to abuse or neglect will be grounds for an emergency transfer, however resident will be charged for the damages caused to the apartment.

12-I.C. EMERGENCY TRANSFER PROCEDURES

ECC/HANH Policy

If the transfer is necessary because of maintenance or other life-threatening conditions defined above, and an appropriate unit is not immediately available, ECC/HANH will provide temporary accommodations for the tenant by arranging for temporary lodging at a hotel or similar location.

In emergency situations when no other appropriate public housing units are available, ECC/HANH may provide families cover the cost of hotel accommodations until repairs are made or a transfer to alternative housing is completed or an HCV.

If the conditions that required the transfer cannot be repaired, or the conditions cannot be repaired in a reasonable amount of time, ECC/HANH will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant. Refusal of a resident to accept an emergency transfer is grounds for termination of assistance or lease termination and eviction.

In cases where ECC/HANH does not have a unit available for an emergency transfer ECC/HANH can transfer the resident to one of its affiliated entities.

Emergency transfers from one LIHTC/RAD/PBV/LIPH development are allowable for Emergencies that cannot be immediately mediated and are subject to applicable LIHTC/LIPH income guidelines and applicable Resident Selection Plans. Emergency transfers will be placed on a centralized transfer list for LIHTC/RAD/PBV/LIPH residents.

Residents must comply with an ECC/HANH required transfer.

12-I.D. COSTS OF TRANSFER

ECC/HANH Policy

ECC/HANH will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

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

ECC/HANH will move the family at ECC/HANH's expense.

All amounts owed under tenancy will follow the family regardless of transfer.

PART II: ECC/HANH REQUIRED TRANSFERS

12-II.A. OVERVIEW

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

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

Residents must comply with an ECC/HANH required transfer.

12-II.B. TYPES OF ECC/HANH REQUIRED TRANSFERS

ECC/HANH Policy

The types of transfers that may be required by ECC/HANH, 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
- emergency transfers as discussed in Part I of this chapter.

Transfers required by ECC/HANH are **mandatory** for the tenant.

Transfers to Make an Accessible Unit Available

When a family is given an accessible unit, but does not require the accessible features, ECC/HANH may require the family to agree to move to a non-accessible unit when it becomes available. ECC/HANH's lease must include the tenant's agreement to transfer to an appropriately sized unit if a family who needs the accessible unit is identified.

ECC/HANH Policy

When a non-accessible unit becomes available, ECC/HANH will transfer a family living in an accessible unit that does not require the accessibility features to an available unit that is not accessible. ECC/HANH may wait until a disabled resident or applicant requires the accessible unit before transferring the family that does not require the accessible features out of the unit. ECC/HANH will give the family a 30 day notice to move, with the right to request a grievance hearing and a reasonable accommodation to remain in the unit if applicable.

Occupancy Standards Transfers

ECC/HANH may require a resident to move when an interim or bi/triennial reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to ECC/HANH policy [24 CFR 960.257(a)(4)].

On some occasions, the ECC/HANH may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The ECC/HANH lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

ECC/HANH Policy

ECC/HANH 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 by at least two (2) degrees.

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 chart in Section 5-I.B, plus one person so the living room may be used as a sleeping room. For example, 5 persons could occupy a two-bedroom unit if the family wishes.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the ECC/HANH'Ss occupancy standards as described in Section 5-I.B.

ECC/HANH may also transfer a family who was initially over-housed to a unit of an appropriate size based on ECC/HANH's occupancy standards, when ECC/HANH determines there is a need for the transfer.

ECC/HANH may also elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move due to occupancy standards will be advised by ECC/HANH 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 Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Scattered site in house transfers supersede scattered site wait list applicants.

The President/Executive Director or his/her designee has the option to allow very large families with two adult members to split into two separate households and transfer to two

units. ECC/HANH might offer a split family transfer if, for example, the family composition changed and now requires a seven-bedroom unit, but ECC/HANH only has four-bedroom units available. A split family transfer is a type of occupancy standards transfer.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

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

ECC/HANH Policy

ECC/HANH 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. ECC/HANH's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the LIPH 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.

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

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

12-II.D. COST OF TRANSFER ECC/HANH

Policy

ECC/HANH will bear the cost of transfers that ECC/HANH requires.

ECC/HANH will bear the cost of transfer related to occupancy standards if ECC/HANH initiates the transfer.

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

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides ECC/HANH with discretion to consider transfer requests from tenants. The only requests that ECC/HANH is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of ECC/HANH. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by ECC/HANH.

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

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

ECC/HANH Policy

The types of requests for transfers that ECC/HANH will consider are limited to requests for:

- transfers to alleviate a serious or life threatening medical condition
- transfers to a different unit size as long as the family qualifies for the unit according to ECC/HANH's occupancy standards
- transfers to a location closer to employment
- ECC/HANH will also consider a request for transfer from a family that simply wishes to change locations as long as they meet the criteria defined later in this chapter.

12-III.C. HIGH PRIORITY RESIDENT REQUESTED TRANSFERS

ECC/HANH Policy

ECC/HANH will consider the following as high priority transfer requests:

1). Urgent – Crime and Safety

In the event of an urgent transfer, involving violence or criminal activity against a family, the family will be placed on the transfer list with LIPH – Crime and Safety preference and moved to an appropriately sized unit accordingly.

Such circumstances will include:

- Targeted violence- a family member is the actual or potential victim of a criminal attack, retaliation for testimony or hate crime and the threat of violence is verified by a law enforcement professional and/or agency.

- Inadvertent violence- to protect a family member from criminal activity that is occurring at the property of the community in which they are not the targeted victim but request to be transferred for their safety and the threat of violence is verified by a law enforcement professional or agency.

2). Reasonable Accommodations:

When a transfer is needed to give a person with a disability an equal opportunity to use and enjoy a dwelling unit or common area as required by federal and state fair housing laws.

A family may request a transfer as a reasonable accommodation for a disability. Examples of a reasonable accommodation transfer include, but are not limited to:

- a transfer to accommodate a person with a mobility impairment such as a transfer to a first floor unit, a unit without stairs or to a unit with a bed and bath on the first floor

or, in the case of person who uses a wheelchair for mobility

- a transfer to a unit with accessible features.

Once a family’s reasonable accommodation has been approved, the family will be placed on the Reasonable Accommodation Transfer List based on the date the family was approved for the reasonable accommodation and the bedroom size(s) and type of unit, approved for such family and will be offered an available unit that meet’s such family’s approved disability and bedroom size needs in a Low Income Public Housing (LIPH which includes the Scattered Site units), Project Based Voucher (PBV) or RAD/PBV development/portfolio accordingly..

If it is determined that ECC/HANH cannot accommodate the family’s approved disability-related needs in the LIPH, PBV or RAD/PBV portfolio, the family may be added to the HCV/TBV Reasonable Accommodation List for an opportunity for a Tenant Based Voucher (TBV).

The family will be given the option of a TBV or may choose to remain on the Reasonable Accommodation Transfer list until a unit that meets their needs becomes available.

3) VAWA:

Violence Against Women Act (VAWA) for ECC/HANH residents who are claiming protections under the Violence Against Women Act (VAWA who are victims of domestic violence, dating violence, sexual assault, stalking and all definitions according to the VAWA Act of 2013 and the Reauthorization of 2022.

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at ECC/HANH’s discretion, include an assessment by law

enforcement or social service agency indicating that a family member is the actual or potential victim of domestic violence, dating violence, sexual assault, or stalking.

The threat may also be established through documentation outlined in section 16VII.D, or by any proof accepted by ECC/HANH.

To qualify for the VAWA preference, the incident must have taken place no more than 90 calendar days prior to date of ECC/HANH's receipt of transfer request.

12-III.D. REGULAR PRIORITY RESIDENT-REQUESTED TRANSFERS

ECC/HANH Policy

The regular priority resident requested transfer list is maintained on a first-come, first serve basis.

ECC/HANH will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meet ECC/HANH's definition of overcrowded, as long as the family meets ECC/HANH's occupancy standards for the requested size unit
- When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate.
- When a family wishes to move to another development for any reason.

Transfers requested by the tenant are considered optional for the tenant.

12-III.E. ELIGIBILITY FOR TRANSFER

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

ECC/HANH Policy

ECC/HANH will only consider transfer requests from residents that meet the following requirements, also referred to as a tenant in "good standing".:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Owe no back rent or other charges, or have a pattern of late payment as defined in the public housing residential lease
- Have no housekeeping lease violations or history of damaging property (a resident with housekeeping standard violations will not be transferred until the resident passes a follow up housekeeping inspection.
- Can get utilities turned on in the name of the head of household

(applicable only to properties with tenant-paid utilities)

Emergency transfers and transfers for reasonable accommodations are exempt from these requirements.

Exceptions to the good standing requirement may also be made when it is to ECC/HANH's advantage to make the transfer.

Exceptions may also be made when ECC/HANH determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

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

12-III.F. SECURITY DEPOSITS

ECC/HANH Policy

When a family transfers from one unit to another, ECC/HANH will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.G. COST OF TRANSFER

ECC/HANH must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

ECC/HANH Policy

The resident will bear all of the costs of transfer s/he requests. However, ECC/HANH will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.H. HANDLING OF REQUESTS

ECC/HANH Policy

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

ECC/HANH 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 documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP.

Failure to provide adequate documentation will lead to a finding of “no action” by ECC/HANH.

If the family does not meet the “good standing” requirements under Section 12-III.C., the manager will deny the request and address the problem. Once resolved, the family may request the transfer again.

ECC/HANH will acknowledge the receipt of the tenant initiated transfer request within 10 business days. If ECC/HANH denies the request for transfer, the family will be informed of its grievance rights. Transfers which are requested as a reasonable accommodation to the family’s disability-related needs will be verified by a 3rd party professional, as necessary, and ECC/HANH will respond within 10 business days of the approval of the reasonable accommodation request.

12-III.I. SCATTERED SITE DEVELOPMENTS (SELF-SUFFICIENCY SCATTERED SITES)

ECC/HANH Policy

Scattered sites are ECC/HANH designated self-sufficiency units and are eligible only to Tier III transfer families and applicant families (families who are between 50% and 80% of AMI) or families granted a Reasonable Accommodation to reside in such property.

Scattered sites are located throughout the jurisdiction ECC/HANH serves. In addition to transfer criteria described in 12.III.E., 12.III.F. and 12.III.G., eligibility for transfer to a scattered site requires:

- Residency in ECC/HANH public housing for a minimum of one year before requesting transfer to a scattered site unit
- Head of house, spouse, cohead or adult is currently employed and has been employed for at least one year
- Demonstrated ability to put and maintain utilities in an adult family member’s name

The lease may provide that the tenant shall perform seasonal maintenance or other maintenance tasks, as specified in the lease, where performance of such tasks by tenants of dwellings units of a similar design and construction is customary: Provided that such provision is included in the lease in good faith and not for the purpose of evading the obligations of ECC/HANH.

ECC/HANH shall exempt tenants who are unable to perform such tasks because of age or disability [966.4(g)].

ECC/HANH Policy

Perform seasonal tasks such as mowing the lawn, raking and removal of leaves and snow removal, as required in the lease, unless approval granted through a reasonable accommodation not to have to perform these functions.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a LIPH transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER PREFERENCES LIST

ECC/HANH Policy

ECC/HANH will maintain a centralized LIPH transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

ECC/HANH will also maintain a centralized transfer list specifically for Reasonable Accommodation transfers, to include families from the LIPH, PBV and RAD/PBV portfolios with the ability to transfer a family with a disability to an available unit within all portfolios.

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case by case basis, upon approval by the Executive Director/President or designee.

If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list, with an “Emergency” preference.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance and life-threatening conditions). See Section 12-I.B.
2. ECC/HANH -required transfers (demolition, disposition, accessibility). See Section 12-II.B.
3. High priority resident-requested transfers. See Section 12-III.C.

4. Regular priority resident-requested transfers. (No preference required) See Section 12-III.D.

Generally, for categories 3 and 4 above, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director/President or designee, ECC/HANH 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 ECC/HANH to meet the demolition, renovation, revitalization program, or RAD schedules.

In the event the next available unit is greater in size than the family requires according to occupancy standards and no suitable family is on the transfer list, *ECC/HANH* may transfer and temporarily over-house the family to maintain the demolition or renovation schedule. All mandatory transfers will take precedence over waiting list admissions.

Emergency transfers required transfer and high-priority transfers take precedence over waiting list applicants.

Excluding the transfers listed above, one out of every ten offers will be made to a resident-requested transfer.

Existing elderly families transferring to elderly-designated properties are not subject to the one-in-ten transfer vs. applicant policy.

The order of Preferences for Resident Transfers is as follows:

- 1) **Emergency**
- 2) **Urgent- Non-VAWA Crime and Safety related transfers**
- 3) **Reasonable Accommodation for Accessible Units (Centralized RA Transfer List)**
- 4) **Reasonable Accommodation for other than those needing accessible units or units with accessible features (Centralized RA Transfer List)**
- 5) **Transfers mandated by modernization projects, demolition, disposition, revitalization and rehabilitation.**
- 6) **Internal VAWA transfers**
- 7) **Transfers due to over and under housing by more than two degrees**
- 8) **Other administrative transfers**

With the approval of the President/Executive Director, ECC/HANH *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.

Transfers from an LIPH development to another LIPH development or a LIHTC ACC, PBV or RAD/PBV development are allowable for all preferences, subject to LIHTC income guidelines and applicable Tenant Selection Plans.

The transfer list is an agency-wide transfer list and not a site-based list. One out of every ten offers will be made to a resident-requested transfer.

Per the development Resident Selection Plan, a resident who resides in a development and requires a different unit size or type will have a priority over other households on the Site based Waitlist for the unit that has become vacant in that Development.

12-IV.C. TRANSFER OFFER POLICY

ECC/HANH Policy

Emergency transfers and ECC/HANH-required transfers to make an accessible unit available, and for demolition/disposition, will provide one offer of transfer.

High priority transfer residents will receive one offer of a transfer.

ECC/HANH required transfers for occupancy standards (over-housed or under-housed) and regular priority transfer residents will receive two offers of transfer.

High priority transfer residents will receive one offer of transfer.

Regular priority transfer residents will receive two offers of transfer.

For emergency transfers and when the transfer is required by ECC/HANH, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of two offer(s) without good cause will result in the removal of the family from the transfer list.

In such cases, the family must wait one year to reapply for a transfer, with the exception of families who requested a transfer for a reasonable accommodation and were withdrawn for refusing a unit offer without good cause. The family can reapply for a transfer for a reasonable accommodation at any time

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL ECC/HANH

Policy

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

- The family demonstrates to ECC/HANH’s satisfaction that accepting the unit offer will require an adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to ECC/HANH’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, 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 family member.
- The unit is inappropriate for the applicant’s disabilities or approved reasonable accommodation, 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.
- Other compelling reasons as approved by ECC/HANH.

ECC/HANH will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

ECC/HANH Policy

If subject to deconcentration requirements, ECC/HANH 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 ECC/HANH’s deconcentration goals.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

ECC/HANH Policy

A new lease is executed at the time of the transfer of a resident from one ECC/HANH unit to another (with no change in anniversary date).

If a resident has a pending summary process matter or has an outstanding balance due to ECC/HANH and is transferring to another unit, execution of a lease addendum will be required in order for ECC/HANH to transfer the resident's current balance and legal case.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

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

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

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

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by ECC/HANH. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the ECC/HANH requirements for voluntary termination of the lease by the family.

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

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

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

PART I: TERMINATION BY TENANT

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

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

ECC/HANH Policy

If a family desires to move and terminate their tenancy with ECC/HANH, they must give at least 30 calendar days advance written notice to ECC/HANH of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control ECC/HANH, at its discretion, may waive the 30-day requirement.

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

PART II: TERMINATION BY ECC/HANH – MANDATORY

13-II.A. OVERVIEW

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

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

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

ECC/HANH 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. See Chapter 7.

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

ECC/HANH 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 ECC/HANH, 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.

See Chapter 7 for a complete discussion of documentation requirements.

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

ECC/HANH must terminate assistance if a participant family fails to disclose and document the complete and accurate social security numbers of each household member.

However, if ECC/HANH 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, ECC/HANH 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 ECC/HANH determined the family to be noncompliant.

ECC/HANH Policy

ECC/HANH will defer the family's termination for 90 days and provide the family with the opportunity to comply for circumstances beyond the participant's control if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

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

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

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

See Chapter 8 for information pertaining to ECC/HANH policies for offering lease revisions.

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

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

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

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

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

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

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, ECC/HANH is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) due to the fact that the family is failing to comply with lease requirements as described in Chapter 11.

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

ECC/HANH must immediately terminate program assistance for deceased single member households.

PART III: TERMINATION BY ECC/HANH – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring ECC/HANH to terminate the lease under the circumstances described in Part II, HUD requires ECC/HANH 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 ECC/HANH to terminate for such violations in all cases. ECC/HANH has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and ECC/HANH may, as an alternative to termination, require the exclusion of the culpable household member. ECC/HANH must adopt policies concerning the use of these options.

In addition, HUD authorizes ECC/HANH to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. ECC/HANH must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the ECC/HANH lease. In the development of the terms of the lease, ECC/HANH must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords ECC/HANH wide discretion in some areas, a broad range of policies could be acceptable.

ECC/HANH, with some restrictions, also has the option to terminate the tenancies of families who are over income.

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

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require ECC/HANH to terminate for such violations in all cases, therefore ECC/HANH policies are needed.

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

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

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and ECC/HANH approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

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

ECC/HANH Policy

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

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

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

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

The lease must provide that ECC/HANH may evict a family when ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will terminate the lease when ECC/HANH determines that a household member is illegally using a drug or ECC/HANH 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 twelve months.

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

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

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

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

ECC/HANH Policy

ECC/HANH 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 ECC/HANH management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

ECC/HANH will consider all credible evidence, including but not limited to, any record of convictions of covered persons related to the criminal activity.

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

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

ECC/HANH must establish standards that allow termination of tenancy if ECC/HANH 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.

ECC/HANH Policy

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

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

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

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

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

ECC/HANH must establish standards that allow termination of tenancy if ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will terminate the lease if ECC/HANH 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.

ECC/HANH will consider all credible evidence, including but not limited to, any record of 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, ECC/HANH will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, ECC/HANH may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

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

ECC/HANH Policy

ECC/HANH will terminate the lease for the following violations of tenant obligations under the lease:

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

Repeated late payment of rent or other charges. Three late payments within a 12-month period shall constitute a repeated late payment.

Other charges include, but are not limited to security deposits, maintenance charges beyond normal wear and tear, for the repair of damages to the premises, legal fees, pet deposit or other service charges.

Reasonable charges to the premises include, but are not limited to, project offices, facilities, equipment, or common areas.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by ECC/HANH for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

Relocation RAD or other Relocation Activities Remain in Good Standing:

If a tenant is in process of relocating, ready to relocate or already relocated temporarily as the result of a RAD Conversion Activity or relocation activities as defined under Federal Universal Relocation Act requirements, it is expected that the tenant remain in good standing under terms

outlined in the tenants PBSA units, HCV Program, or LIPH lease agreements. If the tenant does not remain in good standing, ECC/HANH, its affiliate or instrumentality, has the right to begin its usual process of lease enforcement or termination. In order for this action to take effect, ECC/HANH must demonstrate to the Court's and in necessary HUD's satisfaction the legal action taken where the direct result of tenant's failure to comply with rules and requirements established for occupancy. If it is determined that ECC-HANH did not comply with its established process for taking legal action against a tenant, then any and all legal actions taken will be null and void.

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

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

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

HUD regulations state that ECC/HANH may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit ECC/HANH to only those examples. The Violence against Women Reauthorization Act of 2013 explicitly prohibits ECC/HANH 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 or threatened victim of such violence [24 CFR 5.2005(c)(1)].

ECC/HANH Policy

ECC/HANH will terminate the lease for the following reasons:

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or 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 of facts after admission to the program that would have made the tenant ineligible

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

Failure to furnish such information and certifications regarding family composition and income as may be necessary for ECC/HANH to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

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

Failure to accept an appropriate transfer offer when relocation is required due to modernization or demolition or redevelopment, or other administrative transfer, or to have complied with relocation timeframes, provided that ECC/HANH has complied with requirements under the URA (and implementing regulations), including notice requirements.

Failure to permit access to the unit by ECC/HANH 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 remedy, within 24 hours, conditions declared by local fire, law enforcement, and/or City code compliance agencies to be hazardous, unsafe and/or which render the unit uninhabitable.

Failure to abide by the provisions of ECC/HANH pet policy

If the family has breached the terms of a repayment agreement entered into with ECC/HANH

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

Failure to pay utility bills promptly and/or having utility service shut off so as to cause a threat to the unit, ECC/HANH property, or other residents.

Criminal activity by the resident, any household member, or visitor of the resident that involves the possession of guns, explosive devices, or other dangerous weapons.

If a household member has engaged in or threatened violent or abusive behavior toward ECC/HANH personnel.

Abusive or violent behavior towards ECC/HANH 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, or sexual harassment, 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.

Other material compliance with the terms of the lease. ECC/HANH has the authority to terminate based on material noncompliance with the lease.

The term “material noncompliance” includes:

One or more substantial violations of the lease, especially a violation that adversely affects the health or safety of any person

Repeated minor violations of the lease that:

- a) Disrupt the livability of the project;
- b) Adversely affect the right of any resident to the quiet enjoyment to the leased premises and related project facilities;
- c) Interfere with the management of the project; or

- d) Have an adverse financial effect on the project.

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

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

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

ECC/HANH Policy

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

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

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

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, ECC/HANH will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, ECC/HANH will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, ECC/HANH may evict or terminate the tenancies of families who are over the low-income limit, 80 percent of Area Median Income (AMI). Unless required to do so by local law, ECC/HANH may not evict or terminate the tenancy of a family solely because the family is over income if:

- (1) The family has a valid contract of participation in the FSS program, or
- (2) The family is currently receiving EID.

ECC/HANH is not required to evict over-income residents, but have discretion to do so thereby making units available for applicants who are income-eligible.

ECC/HANH Policy

ECC/HANH will not evict or terminate the tenancies of families solely because they are over the low-income limit, 80 percent to 120 percent of AMI.

Public Housing Over Income Limit under the Housing Opportunity Through Modernization Act (HOTMA) of 2016; [FR-5976-N-07]; [PIH-2019-11 (HA)]; Section 103

Families Exceeding the Income Limit 24 CFR 960.507

When a family's income has exceeded 120 percent of the area median income (AMI) for 24 consecutive months (the "grace period"), ECC/HANH may allow the over-income (OI) family to continue to live in public housing and pay an alternative rent.

ECC/HANH is able to consider specific circumstance in which they will provide flexibility in the administration of over-income requirements, provided such policies are in compliance with the 1937 Act and all applicable fair housing requirements, Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act, and Title II of the Americans with Disabilities Act (ADA) which include the obligation to grant reasonable accommodations that may be necessary for persons with disabilities.

ECC/HANH Policy

Families with income at or above 120 percent area median income are monitored for 24 consecutive months (the "grace period") in preparation for either relocation into market rate housing/homeownership or paying full market rent, without subsidy, in their existing unit.

The over income limit is set by multiplying the very low-income level for the applicable area by a factor of 2.4, a limit equal to approximately 120% of the AMI.

A family who exceeds the OI limit retain all rights and obligations as public housing residents. This includes families that are over income during the 24 month "grace period" or before termination or execution of a non-public housing over-income lease.

If during the 24 month "grace period", ECC/HANH discovers through an annual or interim reexamination that a previously over-income family is now below the over-income limits the family is no longer subject to these provisions and would be entitled to a new two-year grace period if the family's income once again exceeds the over income limit. The family will remain Public Housing residents and will return to regular re-examinations.

Once an ECC/HANH has determined that a family is OI, ECC/HANH must follow the income examination, documentation, and notification requirements under § 960.507(c) including conducting a reexamination of family income annually instead of once every two or three years. 24 CFR 960.253(a),

ECC/HANH must give an OI family three notices, each within the 30 days of the income reexamination that determined that the family is or remain OI.

- 1) At the initial determination of OI status
- 2) Following the reexamination at the conclusion of the 1st 12 months of the grace period and
- 3) At the conclusion of the 24 consecutive months grace period.

If the OI family is in the period of up to six months before their tenancy is terminated, ECC/HANH must conduct an interim reexamination of family income as otherwise required because the OI family is still a program participant prior to termination.

However, the resulting income determination will not make the family eligible to remain in the Public Housing Program, beyond the period defined by ECC/HANH policy.

Once a family is determined to be over-income, the family will be counseled on the options to remain in the unit at the end of the 24 consecutive months and pay the alternative non-public housing rent or to take advantage of the MTW Jumpstart initiative of a one-time incentive payment based upon the average amount needed to rent in the private market, if they choose to vacate the unit.

Lease Requirements for non-public housing over-income families 24 CFR 960.509

A Non-public Housing Over Income (NPHOI) family is a family whose income exceeds the OI limit for 24 consecutive months and the family chooses to remain in the unit and pay the alternative non-public housing rent.

ECC/HANH Policy

After 24 consecutive months, if an over income family chooses to remain in the unit and pay the alternative non-public housing rent, the family must sign a NHHOI lease and are no longer public housing participants.

The family may not participate in public housing resident councils or programs for low income or public housing participants.

The family cannot receive a utility allowance, be subject to income recertifications (24 CFR 960.257(a)(5), or be required to comply with Community Service and Self-Sufficiency Requirements (CSSR).

The rent charged must be equal to the higher of the applicable fair market rent (24 CFR 888(A)), or the amount of the monthly subsidy provided for the unit. HUD will publish the Fair Market rents annually.

If the NPHOI family remains in the unit, the family will not have a choice in rent and instead must pay the alternative rent as defined in § 960.102.

The family must execute a new NPHOI lease within 60 days of the notification and the alternative public housing rent will be charged or the tenancy will be terminated no more than 6 months after the notification.

ECC/HANH will permit, an OI family to execute the lease after the deadline, but before termination of the tenancy, if the OI family pays ECC/HANH the total difference between the alternative non-public housing rent and their public housing rent dating back to the lease execution deadline

ECC/HANH has established a waitlist preference for families who again become income eligible for the public housing program. However, if the family vacated public housing, they will not be eligible for the preference. 24 CFR 960.206, (See Chapter 4)

ECC/HANH will submit an annual report, at the end of the calendar year, that states:

- 1) The number of OI families that reside in public housing. This report will be pulled by HUD via the HUD Form 50058.
- 2) The number of families on the waiting list for public housing. This information will be submitted through the Operating Fund Web Portal beginning January 1, 2024.

NOTE: As ECC/HANH continues to redevelop public housing developments and convert public housing units to the RAD platform, the HOTMA final rule does not address how ECC/HANH should deal with NPHOI families in RAD conversions. Public housing projects being converted under RAD must follow the RAD statute and notices. For OI families that must relocate due to a RAD relocation, the Uniform Relocation Act may apply.

See (24 CFR 960.509) for the Lease Provisions.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

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

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that ECC/HANH may consider exclusion of the culpable household member. Such an alternative can be used for any other reason this solution appears viable in accordance with ECC/HANH policy.

Additionally, under VAWA, ECC/HANH may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

ECC/HANH Policy

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

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

Repayment of Family Debts

ECC/HANH Policy

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

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

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

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits ECC/HANH 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 convicted, and without satisfying the standard of proof used for a criminal conviction.

ECC/HANH Policy

ECC/HANH will use the preponderance of the evidence as the standard for making all termination decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will consider the following factors before deciding whether to terminate the lease:

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 ECC/HANH's failure to terminate the tenancy

The effect of ECC/HANH's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, 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

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

HUD authorizes ECC/HANH 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.

ECC/HANH Policy

ECC/HANH will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

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

Reasonable Accommodation [24 CFR 966.7]

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

ECC/HANH Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, ECC/HANH will determine whether the behavior is related to the disability. If so, upon the family's request, ECC/HANH will determine whether alternative measures are appropriate as a reasonable accommodation.

ECC/HANH will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

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

ECC/HANH's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. 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 Act of 2013 and Reauthorization of 2022 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and ECC/HANH policies pertaining to notification, documentation, and

confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

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

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

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 9/6/13].

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

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

- VAWA does not limit ECC/HANH'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 ECC/HANH does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit ECC/HANH's authority to terminate the tenancy of any public housing tenant if ECC/HANH can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant'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 ECC/HANH to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a

threat” [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions “predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents” [24 CFR 5.2005(d)(3)].

ECC/HANH Policy

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

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest ECC/HANH determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

ECC/HANH Policy

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

ECC/HANH 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 ECC/HANH will document the waiver in the individual’s file.

Terminating or Evicting a Perpetrator of Domestic Violence

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

Specific lease language affirming ECC/HANH's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if ECC/HANH chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that ECC/HANH must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07].

ECC/HANH Policy

ECC/HANH will bifurcate a family's lease and terminate the tenancy of a family member if ECC/HANH 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, ECC/HANH will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to ECC/HANH by the victim in accordance with this section and section 16-VII.D. ECC/HANH will also consider the factors in section 13.III.E. Upon such consideration, ECC/HANH may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If ECC/HANH 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 the person removed from the lease was the only tenant eligible to receive assistance, ECC/HANH must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, ECC/HANH must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013 and Reauthorization of 2022.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

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

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

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

ECC/HANH Policy

All adult household members must sign consent forms for release of criminal conviction and sex offender registration records at regular reexaminations.

ECC/HANH has the authority to conduct criminal records checks when it has come to the attention of ECC/HANH, either from local law enforcement or by other means, that an individual may have engaged in criminal activities, including but not limited to, illegal drug activity, destruction of property, violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information.

ECC/HANH may not pass along to the tenant the costs of a criminal records check.

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

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

ECC/HANH Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, ECC/HANH will notify the household in writing of the proposed adverse action and will provide the tenant and subject of the record opportunity to review a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of ECC/HANH notice of intent to terminate based on criminal records, to dispute the accuracy and relevance of the information. If the family does not dispute the information within that 10-business day period, ECC/HANH will proceed with the termination action. If the family does dispute, ECC/HANH has full authority to proceed with the termination action, based on consideration of the facts.

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

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

Form, Delivery, and Content of the Notice

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

When ECC/HANH 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 ECC/HANH's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When ECC/HANH is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by ECC/HANH for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of ECC/HANH, or for a drug-related criminal activity on or off the premises.

ECC/HANH Policy

ECC/HANH will attempt to deliver notices of lease termination directly to the tenant or adult household member. If the attempt fails, notice will be sent first-class mail the same day.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Reauthorization Act of 2013 (VAWA) for victims of domestic violence, dating violence, sexual assault, or stalking (see section 16-VII.C). ECC/HANH will also include a copy of the form HUD-50066 and a notice of VAWA rights to accompany the termination notice. Any tenant who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual

assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

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

ECC/HANH must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

If the health or safety of other residents, ECC/HANH employees, or persons residing in the immediate vicinity of the premises is threatened

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

ECC/HANH Policy

ECC/HANH will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations ECC/HANH will give 30 day written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

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

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

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

ECC/HANH Policy

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

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

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

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

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

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

ECC/HANH Policy

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

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

ECC/HANH may not proceed with an eviction action if ECC/HANH has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

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

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

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

ECC/HANH Policy

A written record of every termination and/or eviction will be maintained by ECC/HANH and will contain the following:

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

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

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

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

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

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

Note that this chapter is not ECC/HANH's synopsis/description of ECC/HANH's grievance policies given to applicants and residents. The grievance description is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure. The grievance policy is in accordance with 24 CFR Part 966 and any other requirements by local, State or Federal law (42 U.S.C. 1437d(k); 24 CFR 5.5.105)

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

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

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 57-58]

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

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While ECC/HANH must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, ECC/HANH could make the informal hearing process available to applicants who wish to dispute other ECC/HANH actions that adversely affect them.

ECC/HANH Policy

ECC/HANH will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

ECC/HANH must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the ECC/HANH decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, ECC/HANH must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-50066) in accordance with the Violence against Women Reauthorization Act of 2013 and 2022, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

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

Scheduling an Informal Hearing

ECC/HANH Policy

A request for an informal hearing must be made either orally or in writing and presented to ECC/HANH 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 ECC/HANH's notification of denial of admission.

ECC/HANH will schedule and send written notice of the informal hearing within 10 business days of the family's request.

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

ECC/HANH Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to ECC/HANH's decision and evidence to contradict ECC/HANH's decision, if available.

The person conducting the informal hearing will make a recommendation to ECC/HANH, but ECC/HANH is responsible for making the final decision as to whether admission should be granted or denied.

It should be noted that the informal hearing for denied applicants is not a Grievance Hearing.

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

ECC/HANH Policy

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

In rendering a decision, ECC/HANH 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 ECC/HANH policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. ECC/HANH will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, ECC/HANH will uphold the decision to deny admission.

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

ECC/HANH will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

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

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

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

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

For the auditory or visually impaired, ECC/NH must provide, at ECC/HANH's expense, appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large-print, optical readers on computers available for viewing, assistive listening device systems, and sign language interpreters.

ECC/HNH also must take reasonable steps to ensure meaningful access to their programs and activities to individuals with limited English proficiency (LEP).

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

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

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

Effective March 1, 2003, U.S. Citizenship and Immigration Services (USCIS) officially assumed responsibility for the immigration service functions under The Homeland Security Act.

Therefore, any references to USCIS herein are intended to refer to such immigration service functions and, to the extent that any federal regulations refer to or utilize the term or phrase “INS” such term or phrase should be construed to equate to USCIS as used herein.

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 (USCIS) appeal process. Assistance to a family may not be terminated or denied while the ECC/HANH 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 (formerly INS) appeal process or the ECC/HANH informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

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

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance as provided under 24 C.F.R. § 5.520.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in 24 CFR §5.514 and §5.518.
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with ECC/HANH either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

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

When ECC/HANH receives notification that the USCIS secondary verification failed to confirm eligible immigration status, ECC/HANH must notify the family of the results of the USCIS verification. The family shall have 30 days from the date of ECC/HANH's 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 ECC/HANH with a copy of the written request for appeal and proof of mailing.

ECC/HANH Policy

ECC/HANH 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 ECC/HANH 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 form G-845S (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 ECC/HANH, of its decision within 30 days of its receipt of documentation concerning the family's appeal of the verification status. If, for any reason, the USCIS is unable to issue a decision within the 30 day time period, the USCIS will inform the family and ECC/HANH of the reasons for the delay. When ECC/HANH receives a copy of the USCIS decision, ECC/HANH must notify the family of its right to request an informal hearing.

ECC/HANH Policy

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

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

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

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

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

Evidence

The family shall 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 ECC/HANH 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.

ECC/HANH Policy

The family will be allowed to copy any documents related to the hearing at no charge. The family must request discovery of ECC/HANH documents no later than 12:00 p.m. three business days 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 ECC/HANH, and to confront and cross-examine all witnesses on whose testimony or information ECC/HANH relies.

Representation and Interpretive Services

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

ECC/HANH is obligated to provide competent oral interpretation, free of charge, upon request. The family is also entitled to arrange for an interpreter to attend the hearing, at the expense of the family,

Recording of the Hearing

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

ECC/HANH Policy

ECC/HANH will not provide a transcript of an audio taped informal hearing.

Prior to the hearing, either the tenant or ECC/HANH may arrange for a transcript of the hearing to be made. The cost of the transcript will be paid by the party requesting the transcript. Any interested party may purchase a copy of the transcript (24 CFR § L966.56(e)).

Hearing Decision

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

Retention of Documents [24 CFR 5.514(h)]

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

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

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

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

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

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

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

ECC/HANH must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any ECC/HANH action or failure to act involving the lease or ECC/HANH policies which adversely affect their rights, duties, welfare, or status. ECC/HANH must not only meet the minimal procedural due process requirements provided under the regulations, but must also satisfy any additional requirements required by local, state or federal law.

The ECC/HANH grievance procedure must be included in, or incorporated by reference in, the lease.

ECC/HANH Policy

ECC/HANH grievance procedure will be incorporated by reference in the tenant lease.

ECC/HANH must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the ECC/HANH grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by ECC/HANH before adoption of any changes to the grievance procedure by ECC/HANH.

ECC/HANH Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by ECC/HANH of any proposed changes in ECC/HANH grievance procedure, to submit written comments to ECC/HANH.

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their hearings remotely either over the phone, via video conferencing, or through other virtual platforms.

ECC/HANH Policy

ECC/HANH may conduct hearings in person or remotely via video or telephone. If ECC/HAN chooses to conduct remote hearings, the platform must be accessible to persons with disabilities and be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. See Notice PIH 2020-32.

ECC/HANH must furnish a copy of the grievance procedure to each tenant and to resident organizations.

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

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

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

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

In accordance with Federal Regulation 24 CFR 966.51, the grievance procedure is applicable only to individual tenant issues relating to ECC/HANH (as defined previously in 14-III.B). It is not applicable to disputes between tenants not involving ECC/HANH. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum by a group or groups of tenants for initiating or negotiating policy changes of ECC/HANH.

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

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of ECC/HANH
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member
- ECC/HANH will attempt to address tenant disputes caused by lease violations prior to eviction proceedings unless the violation endangers the health, safety, and welfare of other tenants and ECC/HANH staff or involves criminal activity or administrative issues that render the tenant no longer eligible for occupancy at ECC/HANH.

If HUD has issued a due process determination, ECC/HANH may evict the occupants of the dwelling through the state/local judicial eviction procedures. In this case, ECC/HANH is not required to provide the opportunity for a hearing under ECC/HANH's grievance procedure as described above.

ECC/HANH Policy

ECC/HANH is located in a HUD-declared due process state. ECC/HANH will exclude from ECC/HANH grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of ECC/HANH
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

See Chapter 13 for related policies on the content of termination notices.

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

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the ECC/HANH office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

To present a grievance, an individual must be a tenant, defined as the adult person(s), other than a live-in aide, who resides in the unit and executed the lease as the lessee. If there is no such person in the household, the person who resides in the unit or resides in the unit and is the remaining head of household (24 CFR § 966.53(f); 966.54) can present a grievance. An individual appointed power of attorney for a tenant or a legal guardian with legal authority to act for the tenant may also present a grievance.

ECC/HANH Policy

ECC/HANH will accept requests for an informal settlement of a grievance either orally or in writing, to the ECC/HANH office within 10 business days of the grievable event.

Within 10 business days of receipt of the request ECC/HANH will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, ECC/HANH will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

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

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the ECC/HANH tenant 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 formal hearing may be obtained if the complainant is not satisfied.

ECC/HANH Policy

ECC/HANH will prepare a summary of the informal settlement within 10 business days; one copy to be given to the tenant and one copy to be retained in the ECC/HANH tenant file.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

ECC/HANH Policy

The resident must present an oral or written request for a grievance hearing to ECC/HANH within 10 business days of the tenant's receipt of the summary of the informal settlement.

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

Escrow Deposits [24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that ECC/HANH claims are due, the family must pay an escrow deposit to ECC/HANH. When a family is required to make an

escrow deposit, the amount is the amount of rent ECC/HANH 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.

ECC/HANH 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 ECC/HANH waives the requirement, the family's failure to make the escrow deposit will

terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest ECC/HANH's disposition of the grievance in any appropriate judicial proceeding.

ECC/HANH Policy

ECC/HANH will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

Scheduling of Hearings [24 CFR 966.56(a)]

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

ECC/HANH Policy

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

ECC/HANH may wish to permit the tenant to request to reschedule a hearing for good cause.

ECC/HANH Policy

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

Expedited Grievance Procedure

ECC/HANH may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of ECC/HANH, or
- Any drug-related criminal activity on or off the premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

ECC/HANH may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

ECC/HANH Policy

ECC/HANH is located in a HUD-declared due process state which gives ECC/HANH authority to bypass the grievance process as described in 14-III.C. above. Therefore, ECC/HANH has not established expedited grievance procedures.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.55(b)]

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

ECC/HANH Policy

ECC/HANH grievance hearings will be conducted by either a hearing officer or a panel consisting of an ECC/HANH director or employee, a contract hearing officer, and an ECC/HANH resident.

ECC/HANH must describe its policies for selection of a hearing officer in its lease forms. Changes to the public housing lease are subject to a 30-day comment period (24 CFR 966.4)

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

Rights of Complainant [24 CFR 966.56(b)]

ECC/HANH must designate a hearing officer or officers to conduct grievance hearings. The hearing officer must be an impartial person or persons selected by ECC/HANH, other than the person who made or approved the decision under review, or a subordinate of that person as described in 24 CFR § 966.53(e).

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

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

ECC/HANH Policy

The tenant will be allowed to copy any documents related to the hearing at no charge.

The family and/or representative should request discovery of ECC/HANH documents no later than 12:00 p.m., three business days prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

ECC/HANH Policy

Hearings may be attended by the following applicable persons:

An ECC/HANH representative(s) and any witnesses for ECC/HANH

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by ECC/HANH as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.

- The right to present evidence and arguments in support of the tenant’s complaint, to controvert evidence relied on by ECC/HANH or property management, and to confront and cross-examine all witnesses upon whose testimony or information ECC/HANH or property management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or ECC/HANH fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and ECC/HANH must be notified of the determination by the hearing officer/panel: Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest ECC/HANH’S disposition of the grievance in an appropriate judicial proceeding.

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

ECC/HANH Policy

If the ECC/HANH representative does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the ECC/HANH representative appears within 15 minutes of the scheduled time, the hearing will be held. If the ECC/HANH representative does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear, and the hearing officer will find in favor of the complainant.

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the tenant appears within 15 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear, and ECC/HANH’s determination will become final (excepting the below paragraph).

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

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

General Procedures [24 CFR 966.56(d)]

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

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

ECC/HANH Policy

Any supporting testimony or documentation to be considered by the hearing officer or hearing panel must be presented at the time of the hearing.

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

ECC/HANH Policy

If the complainant would like ECC/HANH to record the proceedings by audiotape, the request must be made to ECC/HANH by 12:00 p.m. at least three business days prior to the hearing.

ECC/HANH will consider that an audio tape recording of the proceedings is a transcript.

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

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

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

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

Limited English Proficiency (24 CFR 966.56(g))

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

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

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and ECC/HANH. ECC/HANH must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by ECC/HANH and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

ECC/HANH Policy

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

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

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

ECC/HANH Evidence to Support the ECC/HANH Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument.

The hearing officer will evaluate the facts to determine if they support ECC/HANH's conclusion.

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

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

Hearing information:

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the ECC/HANH representative(s)
- Name of family representative (if any)
- Names of witnesses (if any)

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

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

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

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

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

Procedures for Further Hearing

ECC/HANH Policy

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

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on ECC/HANH, which must take the action(s), or refrain from taking the action(s), necessary to carry out the decision, unless the ECC/HANH Board of Commissioners determines within a reasonable time, and notifies the complainant that:

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

ECC/HANH Policy

When ECC/HANH considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the ECC/HANH Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of ECC/HANH or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor affect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

ECC/HANH is committed to ensuring that funds made available to ECC/HANH are spent in accordance with HUD requirements.

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

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

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

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS, FRAUD AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS, FRAUD AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide ECC/HANH with a powerful tool for preventing errors and program abuse. ECC/HANH is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. ECC/HANH is further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

ECC/HANH Policy

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

To ensure that ECC/HANH’s program is administered effectively and according to the highest ethical and legal standards, ECC/HANH will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

ECC/HANH will provide each applicant and resident with a copy of “Is Fraud Worth It?” (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

ECC/HANH will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, ECC/HANH will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

ECC/HANH will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. ECC/HANH will discuss program compliance and integrity issues.

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

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

ECC/HANH will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key ECC/HANH forms and form letters that request information from a family member.

ECC/HANH will provide each ECC/HANH employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

At every regular reexamination ECC/HANH staff will explain any changes in HUD regulations or ECC/HANH policy that affect residents.

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

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

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

ECC/HANH Policy

Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

Quality Control and Analysis of Data

ECC/HANH Policy

ECC/HANH will employ a variety of methods to detect errors and program abuse, including:

ECC/HANH routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to ECC/HANH.

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

ECC/HANH will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

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

ECC/HANH Policy

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

Individual Reporting of Possible Errors and Program Abuse

ECC/HANH Policy

ECC/HANH will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When ECC/HANH Will Investigate

ECC/HANH Policy

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

ECC/HANH will investigate when inconsistent or contradictory information is detected through file reviews, the verification process and/or the reexamination process.

Consent to Release of Information [24 CFR 960.259]

ECC/HANH may investigate possible instances of error or abuse using all available ECC/HANH and public records. If necessary, ECC/HANH will require families to sign consent forms for the release of additional information.

Analysis and Findings

ECC/HANH Policy

ECC/HANH will base its evaluation on a preponderance of the evidence collected during its investigation.

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

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

Consideration of Remedies

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

ECC/HANH Policy

In the case of family-caused errors or program abuse, ECC/HANH will take into consideration

- (1) the seriousness of the offense and the extent of participation or culpability of individual family members
- (2) any special circumstances surrounding the case
- (3) any mitigating circumstances related to the disability of a family member

(4) the effects of a particular remedy on family members who were not involved in the offense

Notice and Appeals

ECC/HANH Policy

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

- (1) a description of the error or program abuse
- (2) the basis on which ECC/HANH determined the error or program abuses
- (3) the remedies to be employed
- (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14)

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

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

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, ECC/HANH must promptly correct the tenant rent and any utility reimbursement prospectively.

ECC/HANH Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice.

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

Reimbursement

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

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

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

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows ECC/HANH to use incorrect information provided by a third party.

Family Reimbursement to ECC/HANH

ECC/HANH Policy

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

ECC/HANH Reimbursement to Family

ECC/HANH Policy

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

Prohibited Actions

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

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

ECC/HANH Policy

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

Offering bribes or illegal gratuities to the ECC/HANH Board of Commissioners, employees, contractors, or other ECC/HANH representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to ECC/HANH on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

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

Admission of program abuse by an adult family member

ECC/HANH may conduct an interim reexamination at any time in order to investigate a resident fraud complaint.

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

Penalties for Program Abuse

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

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

15-II.C. ECC/HANH-CAUSED ERRORS OR PROGRAM ABUSE

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

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

Repayment to the ECC/HANH

The family is not required to repay an underpayment of rent if the error or program abuse is caused by ECC/HANH staff.

ECC/HANH Reimbursement to Family

ECC/HANH Policy

ECC/HANH will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

ECC/HANH Policy

Any of the following will be considered evidence of program abuse by ECC/HANH staff:

- Failing to comply with any public housing program requirements for personal gain

- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to ECC/HANH

- Disclosing confidential or proprietary information to outside parties

- Gaining profit as a result of insider knowledge of ECC/HANH activities, policies, or practices

- Misappropriating or misusing public housing funds

- Destroying, concealing, removing, or inappropriately using any records related to the public housing program

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

Penalties for Fraud or Program Abuse

ECC/HANH Policy

When ECC/HANH determines that the staff member has committed program abuse, ECC/HANH may take any of the following actions:

Refer to ECC/HANH personnel and union policies for disciplinary action.

Refer the case to state or federal officials for criminal prosecution.

15-II.D. CRIMINAL PROSECUTION

ECC/HANH Policy

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

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

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

If ECC/HANH enters into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that ECC/HANH recovers [Notice PIH 2007-27 (HA)].

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

The family must be afforded the opportunity for a hearing through ECC/HANH's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

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

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

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent and public housing maximum rents.

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

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

Part V: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the ECC/HANH's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

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

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

16-I.A. OVERVIEW

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

ECC/HANH must also establish surcharges for excess consumption of ECC/HANH furnished utilities.

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

16-I.B UTILITY ALLOWANCES

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

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

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

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

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and 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 [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to ECC/HANH about establishing utility allowances.

Air-Conditioning

“If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.” [24 CFR 965.505(e)]

ECC/HANH Policy

ECC/HANH has air conditioning in some but not all of its developments

Utility Allowance Revisions [24 CFR 965.507]

ECC/HANH must review at least annually, the basis on which utility allowances have been established and must revise the allowances if necessary, in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

ECC/HANH 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.

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.

ECC/HANH Policy

Between annual reviews of utility allowances, ECC/HANH will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR ECC/HANH-FURNISHED UTILITIES [24 CFR 965.506]

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

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

ECC/HANH Policy

Some, but not all, of ECC/HANH's developments have ECC/HANH furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

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

- 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 ECC/HANH's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents with an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

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

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

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

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

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

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

Public 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 [24 CFR 5.504].

This part discusses how ECC/HANH establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2015-13]

Establishing Flat Rents

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

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

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

In order to demonstrate the need for an exception flat rent, ECC/HANH is required to submit a market analysis methodology that demonstrates the value of the unit. ECC/HANH must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, ECC/HANH must 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 ECC/HANH
- Utilities provided by the ECC/HANH

ECC/HANH must receive written HUD approval before implementing exception flat rents. If ECC/HANH uses exception flat rents, ECC/HANH must conduct a new market analysis, and obtain HUD approval, annually.

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

Review of Flat Rents

No later than 90 days after HUD publishes new annual FMRs/SAFMRs/unadjusted rent, ECC/HANH must revise flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent. ECC/HANH must offer changes to the flat rent to all new admissions and to existing families at the next annual rent option.

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

ECC/HANH Policy

If the FMR is higher than the previous year, ECC/HANH will offer the new flat rent at regular reexamination.

According to the Annual MTW Plan, Initiative 3.1 – Rent, as of FY 2020 the Flat Rent option certification form will only be signed at time of biennial/triennial certification, however, families will have the opportunity to switch to the Flat rent once a year. Annual notice must go out to families, but signatures will not be required except for at time of scheduled bi/tri certification. This change is in line with efforts to streamline the certification process; relieving staff of the additional burden and allowing families to benefit from the full extent of Rent Simplification as written.

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

Flat Rents will be effective on January 1 of each year.

Posting of Flat Rents

ECC/HANH Policy

ECC/HANH will publicly post the schedule of flat rents in a conspicuous manner in the applicable/HANH or property management office.

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

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

16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

ECC/HANH 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 [24 CFR 5.500]. Therefore, in order to assist mixed families, ECC/HANH must prorate

assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

ECC/HANH Policy

The public housing maximum rent is based on the flat rent for the unit.

ECC/HANH may use the “direct comparison” or the “unit distribution” method for establishing the public 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 public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

ECC/HANH Policy

ECC/HANH will recalculate the public housing maximum rents as flat rents are revised.

Posting of Public Housing Maximum Rents

ECC/HANH Policy

ECC/HANH will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable ECC/HANH or property management office.

Documentation of Public Housing Maximum Rents

ECC/HANH Policy

ECC/HANH bases the public housing maximum rent on the flat rent for the unit, and retains documentation.

PART III: FAMILY DEBTS TO ECC/HANH

16-III.A. OVERVIEW

This part describes ECC/HANH'S policies for recovery of monies owed to ECC/HANH by families.

ECC/HANH Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, ECC/HANH holds the family liable to return any underpayments to ECC/HANH.

ECC/HANH will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When a family refuses to repay monies owed to ECC/HANH, -ECC/HANH will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

16-III.B. REPAYMENT POLICY

Family Debts to ECC/HANH

ECC/HANH Policy

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

The term *repayment agreement* refers to a formal document signed by a resident and provided to ECC/HANH in which a resident acknowledges a balance owed to ECC/HANH and agrees to make payments toward the balance as well as continuing to pay the monthly rent amount.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, ECC/HANH will terminate the family's tenancy in accordance with the policies in Chapter 13. ECC/HANH will also pursue other modes of collection.

General Repayment Agreement Guidelines

Limit on Repayment Agreements

ECC/HANH Policy

ECC/HANH generally will not enter into a repayment agreement.

No Offer of Repayment Agreement

ECC/HANH Policy

ECC/HANH will not enter into a repayment agreement:

If there is already a repayment agreement in place with the family.

If ECC/HANH determines that the family committed program fraud and owes ECC/HANH \$1,000 or more as a result of ECC/HANH’s investigation or information from an outside source

If ECC/HANH determines that the debt is larger than can be paid back by the family within 12 months.

Any recommendation by an ECC/HANH manager to enter into a repayment agreement for residents with a balance of \$1000 or more must be approved by the Executive Director/President or designee. The recommendation/request to enter into a repayment agreement of \$1,000 or more is in the form of a document prepared by the manager upon consultation with the Executive Director/President. The document is prepared for signature based upon such consultation with the Executive Director/President.

Initial Payment Due

ECC/HANH Policy

This schedule does not apply to families who owe ECC/HANH as a result of program abuse. Prior to the execution of a repayment agreement, the family must pay a percentage of the balance owed to ECC/HANH as follows:

Initial Payment Due

(% of Total Amount)

Amount Owed

20%

\$0 - \$499

15%

\$500 or more

If the family can provide evidence satisfactory to ECC/HANH that the initial payment due would impose an undue hardship, ECC/HANH may, in its sole discretion, require a lesser percentage or waive the requirement.

Repayment Agreement Length

ECC/HANH Policy

Amounts of \$1,000 or more are not eligible for repayment agreements.

Amounts of \$500 but less than \$1,000 must be repaid within 12 months.

Amounts under \$500 must be repaid within 6 months.

Amounts of \$500 or more, or one month’s use and occupancy, must be referred to ECC/HANH’s Legal Department. The minimum monthly payment for a payment agreement other than for program fraud is \$25, with the stipulation that the amount owed must be paid within the repayment agreement length.

Payment Thresholds

Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds”.

Reduction in Monthly Payments

ECC/HANH Policy

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Housing Manager and Legal Department.

Execution of the Agreement

ECC/HANH Policy

Any repayment agreement between ECC/HANH and a family must be signed and dated by ECC/HANH and by the head of household and spouse/cohead (if applicable) and signed by the Housing Manager and Legal Department.

Form of Payment

ECC/HANH Policy

Payments may only be made by money order or cashier's check.

Due Dates

ECC/HANH Policy

All payments are due by the close of business on the 10th day of the month. If the 10th does not fall on a business day, the due date is the close of business on the first business day after the 10th.

Late or Missed Payments

ECC/HANH Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by ECC/HANH, ECC/HANH will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and ECC/HANH will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default. ECC/HANH's notice of default will give the family the opportunity to cure by requiring the family to pay the balance in full prior to the due date. If the balance in full is not paid by the due date stipulated in the repayment agreement default notice, ECC/HANH will issue a termination notice and will terminate tenancy in accordance with the policies in Chapter 13.

ECC/HANH will also refuse to enter into future repayment agreements with the family.

Moves to Another Unit

ECC/HANH Policy

If the agreement is not in arrears, the family will be permitted to move.

If the agreement is in arrears, the family will be required to pay the balance in full or be terminated from the program.

Family error/late reporting

ECC/HANH Policy

Families who owe money to ECC/HANH due to the family's failure to report changes in income as required by ECC/HANH policies in a timely manner, per ECC/HANH policies, will be required to repay in accordance with the guidelines in the Down Payment Requirement and Payment Thresholds sections of this part.

Program Fraud

ECC/HANH Policy

Families who owe money to ECC/HANH due to program fraud, other than what is described in the No Offer of Repayment Agreement section of this part, will be required to pay in accordance with the Payment Procedures for Program Fraud below.

If a family owes an amount of \$1,000.00 or more as a result of program fraud, no repayment agreement will be offered per No Offer of Repayment Agreement section above.

If a family owes an amount of \$5,000 or more as a result of program fraud, the case will be referred to the HUD Office of Inspector General. If the amount owed by the family meets or exceeds the federal or state threshold for criminal prosecution, ECC/HANH will refer the case for criminal prosecution.

Payment Procedures for Program Fraud

ECC/HANH Policy

Families who commit program fraud will be subject to the following procedures:

The maximum time period for a Payment Agreement will be 12 months.

The family will be required to make a minimum down payment of one third (1/3) of the balance or \$250, whichever amount is greater, prior to or upon execution of the Payment Agreement.

The minimum monthly payment will be \$50.00.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which ECC/HANH may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to ECC/HANH the monthly payment amount specified in the agreement but must also pay to ECC/HANH the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: RECORD KEEPING

16-IV.A. OVERVIEW

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

In addition, ECC/HANH must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

16-IV.B. RECORD RETENTION

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

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

ECC/HANH Policy

During the term of each public housing tenancy, and for at least four years thereafter, ECC/HANH will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, ECC/HANH 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 public housing maximum rent

- Documentation supporting the establishment of utility allowances and surcharges

- Documentation related to PHAS

- Accounts and other records supporting ECC/HANH budget and financial statements for the program

- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule

- Other records as determined by ECC/HANH or as required by HUD

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

16-IV.C. RECORDS MANAGEMENT

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

ECC/HANH Policy

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

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

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

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

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

Upfront Income Verification (UIV) Records

PHAs (ECC/HANH) that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

ECC/HANH Policy

Prior to utilizing HUD's EIV system, ECC/HANH has adopted and implemented EIV security procedures required by HUD.

Criminal Records

ECC/HANH may only disclose the criminal conviction records which ECC/HANH receives from a law enforcement agency to officers or employees of ECC/HANH, or to authorized representatives of ECC/HANH who have a job-related need to have access to the information [24 CFR 5.903(e)].

ECC/HANH must establish and implement a system of records management that ensures that any criminal record received by ECC/HANH 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 ECC/HANH action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

ECC/HANH must establish and implement a system of records management that ensures that any sex offender registration information received by ECC/HANH 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 ECC/HANH action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by ECC/HANH other than under 24 CFR 5.905.

Medical/Disability Records

ECC/HANH not permitted to inquire about the nature or extent of a person's disability. ECC/HANH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If ECC/HANH receives a verification document that provides such information, ECC/HANH should not place this information in the tenant file. ECC/HANH should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and ECC/HANH policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.

PART V: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-V.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]; PIH 2017-13 (HA); OHHLHC 2017-01; HUD Lead Safe Housing Rule; ECC/HANH Lead Safe Housing Policy and Procedure

ECC/HANH has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

ECC/HANH must report the name and address of a child of less than 6 years of age, 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. ECC/HANH must also report each known case of a child with an environmental intervention blood lead level to the HUD field office and HUD's Office of Lead Control.

ECC/HANH Policy

ECC/HANH will provide the public health department with written notice of the name and address of any child of less than 6 years of age, identified as having an environmental intervention blood lead level.

ECC/HANH will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office and HUD's Office of Lead Control within 5 business days of receiving the information.

ECC/HANH will ensure that an environmental investigation of the child's unit and the common areas servicing the unit occurs within 15 calendar days, in accordance with Chapter 16 of the HUD Guidelines.

ECC/HANH will notify the HUD Field Office of the results of the environmental investigation and the lead hazard control work within 10 business days of receiving the results.

ECC/HANH must notify the family of the results of the environmental review **within 15 calendar days** after receiving the results.

ECC/HANH will direct that any lead-based hazards identified by the investigation are controlled **within 30 calendar days** by a certified lead-based paint abatement firm or certified lead renovation firm.

In a multi-unit development, ECC/HANH shall ensure that all residents are notified of the lead evaluation and hazard control activities.

ECC/HANH shall notify the HUD Field Office of the results of the lead hazard control work within **10 business days** of receiving the results.

After completion and clearance of the lead control work, ECC/HANH shall ensure through a preventative maintenance schedule that the unit and common areas are maintained as lead safe for continued occupancy.

Re-evaluations are required every 2 years by a certified lead risk assessor. Any findings must be attended to. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly bare soil.

PART VI: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VI.A. OVERVIEW

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and ECC/HANH policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and ECC/HANH policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

16-VI.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, 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 *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-VI.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

ECC/HANH adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

ECC/HANH Policy

ECC/HANH 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 public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that ECC/HANH may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A statement of ECC/HANH's obligation to keep confidential any information that it receives from a victim unless (a) ECC/HANH 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 (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

ECC/HANH is required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

ECC/HANH must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-50066) at each of these three junctures.

ECC/HANH Policy

The VAWA information provided to applicants and tenants will consist of the notice of VAWA rights in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

ECC/HANH will provide all applicants with information about VAWA at the time they request an application for housing assistance. ECC/HANH will also include such information in all notices of denial of assistance (see section 3-III.F).

ECC/HANH will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. ECC/HANH will also include such information in all lease termination notices (see section 13-IV.D).

ECC/HANH is not limited to providing VAWA information at the times specified in the above policy. If ECC/HANH decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases ECC/HANH make alternative delivery arrangements that will not put the victim at risk.

ECC/HANH Policy

Whenever ECC/HANH has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

16-VLD. DOCUMENTATION [24 CFR 5.2007]

ECC/HANH presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or 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. ECC/HANH may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the ECC/HANH's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative 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; a mental health professional; 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.

ECC/HANH may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

ECC/HANH Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three 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.

ECC/HANH may, in its discretion, extend the deadline for 10 business days. Any extension granted by ECC/HANH will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where ECC/HANH 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, ECC/HANH may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). ECC/HANH must honor any court orders issued to protect the victim or to address the distribution of property.

ECC/HANH Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, ECC/HANH will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

ECC/HANH has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

ECC/HANH Policy

If ECC/HANH accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, ECC/HANH will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, ECC/HANH 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 ECC/HANH may allow, ECC/HANH may deny relief for protection under VAWA.

16-VI.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to ECC/HANH regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that ECC/HANH (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.

ECC/HANH Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, ECC/HANH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**EXHIBIT 16-1: NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS
REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or “VAWA.” The purpose of this law is to protect women, men and children. This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, ECC/HANH cannot refuse to admit you to the public housing program on the basis that you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking ECC/HANH cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

ECC/HANH can still evict you if ECC/HANH can show there is an *actual and imminent* (immediate) threat to other tenants or ECC/HANH staff if you are not evicted. Also, ECC/HANH can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking against you. ECC/HANH cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

ECC/HANH may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If ECC/HANH chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, ECC/HANH must follow federal, state, and local eviction procedures.

Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

ECC/HANH can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. It must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. ECC/HANH is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by ECC/HANH. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.

- Provide a statement from a victim service provider, attorney, mental health professional, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order, or an administrative record.

Additionally, at its discretion, ECC/HANH can accept a statement or other evidence provided by the applicant or tenant.

If you fail to provide one of these documents within the required time, ECC/HANH may evict you.

Confidentiality

ECC/HANH must keep confidential any information you provide about the violence against you, unless:

- You give written permission to ECC/HANH to release the information.
- ECC/HANH needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires ECC/HANH to release the information.

If release of the information would put your safety at risk, you should inform ECC/HANH.

VAWA and Other Laws

VAWA does not limit ECC/HANH’S duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact ECC/HANH’s Resident Compliance & Support Manager

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common

- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as “any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent” (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***sexual assault*** as “any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.”

VAWA defines ***stalking*** as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Chapter 17

TRESPASS POLICY

INTRODUCTION

The Elm City Communities/Housing Authority of the City of New Haven (ECC/HANH) has adopted a Trespass policy in an effort to enhance the safety, quality of life, and peaceful enjoyment of its residents, visitors and its employees. ECC/HANH will issue a No Trespass notice to those individuals who commit crimes, engage in illegal activity, or participate in nuisance behavior on ECC/HANH Property. This policy is not intended to restrict residents from having guests in their units. As long as a person is invited by an ECC/HANH resident to their unit, and remains under the supervision of the resident, said person is considered a guest. Further, this policy is not intended to restrict the ability of invited guests of ECC/HANH residents to travel to and from the homes of those residents freely, even if said guests are on the No Trespass List.

OVERVIEW

I. Definitions

A. **ECC/HANH Property:** The properties owned, leased, and maintained by ECC/HANH. These properties are private property and include, but are not limited to, ECC/HANH's developments, buildings, and the common areas within these properties.

B. **Common Area:** Any part of an ECC/HANH development that is not leased for exclusive use and occupancy of a resident, including any entrance, hallway, community room, parking lot, laundry facility, sidewalk, and/or dumpster area.

C. **Trespassed Person:** A person who is no longer permitted to enter any ECC/HANH Property in accordance with this Trespass Policy, who is not a member of a resident household or a guest of such household, and who has received a notice of his or her placement on the trespass list in accordance with the procedures outlined in Section III because of one or more behaviors described in Section II.B.

E. Trespass Notice: Notice of Trespass states if the named person returns to ECC/HANH Property, the person shall be subject to arrest for criminal trespass in accordance with **CT General Statutes: Sec. 53a-109.**

Trespass: Sec. 53a-109. Criminal trespass in the third degree: Class C misdemeanor.

(a) A person is guilty of criminal trespass in the third degree when, knowing that he is not licensed or privileged to do so: (1) He enters or remains in premises which are posted in a manner prescribed by law or reasonably likely to come to the attention of intruders, or fenced or otherwise enclosed in a manner designed to exclude intruders, or which belong to the state and are appurtenant to any state institution; or (2) he enters or remains in any premises for the purpose of hunting, trapping or fishing.

(b) Criminal trespass in the third degree is a class C misdemeanor.

F. Trespass List: A list maintained by ECC/HANH staff of persons who are no longer permitted on ECC/HANH property due to violations they have committed as outlined in this policy. A person who is on the list may enter ECC/HANH property if such person is a guest as defined below.

Guest: Any person, whether or not otherwise designated as a “trespassed person” who is on ECC/HANH property at the invitation of a member of a resident household living in the ECC/HANH area in which such person is found and who is within the scope of his or her invitation.

II. Trespass Determination

A. Authorized Persons. Entrance to ECC/HANH Property is restricted to ECC/HANH leaseholders, their household members, authorized visitors and guests, as well as ECC/HANH employees, Commissioners, representative agents, contractors, and law enforcement officials carrying out official ECC/HANH or law enforcement business.

B. Persons Subject to Trespass. Any person who has engaged in activities that threaten the health, safety and right to peaceful enjoyment of ECC/HANH residents, authorized visitors or guests, or ECC/HANH employees will be prohibited from entering ECC/HANH Property, except for as a guest.

Examples of persons who will be prohibited from entering ECC/HANH Property include, but are not limited to, the following:

1. A person who engages in a verbal or physical confrontation with any law enforcement officer, ECC/HANH employee or representative agent, resident, or authorized guest or visitor while on ECC/HANH Property.
2. A person who engages in any drug related criminal activity on ECC/HANH property.
3. A person who engages in any criminal activity that threatens the health, safety and right to peaceful enjoyment of ECC/HANH residents or employees.
4. A person who engages in any violence or threatened violence against any ECC/HANH resident, authorized visitor or guest, employee or representative agent of ECC/HANH. This includes domestic violence as described in the Violence Against Women Reauthorization Act of 2005, 2013 and 2022 (VAWA).
5. A person who engages in criminal activity on ECC/HANH property in which a deadly weapon or dangerous instrument was used, or threatened to be used, or any activity that resulted in physical injury to any person.
6. A person, who damages, destroys, vandalizes, defaces, or otherwise reduces the value of the real and/or personal property of ECC/HANH, its employees, commissioners, representative agents, residents, visitors and guests, contractors, any law enforcement official, or other member of the public.
7. A person who engages in any illegal behavior involving firearms or other deadly weapon, including, but not limited to, unlawful possession, concealment, discharge or use of a said firearm or deadly weapon on ECC/HANH property.
8. A person who commits a public nuisance, including drunkenness, and other disorderly, lewd, or lascivious conduct on ECC/HANH Property.
9. A person who loiters or otherwise fails to have any legal business on ECC/HANH Property.
10. A person who causes significant littering and who participates in illegal dumping on ECC/HANH Property
11. A person who engages in any illegal behavior involving automobiles or other vehicles on ECC/HANH property, including, but not limited to, reckless driving, joy riding, destruction, and theft.

As determined by designee of Executive Director/President, a person who has engaged in an activity that threatens the health, safety, and right to peaceful enjoyment of ECC/HANH residents may be banned from entering ECC/HANH Property.

Grounds for being placed on ECC/HANH's No Trespass list are outlined in section II (B), Persons Subject to No Trespass, of this policy. No person will be placed on the list in the absence of written notification by ECC/HANH's Executive Director/President or designee.

1. The person being placed on the list will be notified in writing by ECC/HANH's Executive Director/President or designee.
2. Following ECC/HANH's determination to ban a person from ECC/HANH Property, a Trespass Notice will be prepared by ECC/HANH employee or legal counsel. The ECC/HANH employee will include the following information on the notice:
 - (1) Date notice issued
 - (2) Development where offense(s) occurred
 - (3) Description of offense
 - (4) Name of the trespassed person
 - (5) Appeal process and length of time of no trespass
 - (6) Once the Trespass Notice has been delivered
 - (7) Copies shall be distributed as follows
 8. Police Department
 9. ECC/HANH Management office
 10. Resident associated with trespassed person
3. The Trespass Notice shall serve as notice that the Trespassed Person shall not enter any ECC/HANH Property except as an authorized guest, and that the **affected resident** may appeal ECC/HANH's determination in accordance with Section IV below.

The ECC/HANH employee will make a reasonable effort to include the following information in the Trespass Notice:

1. The full name and address of the offender;
2. The date the Trespass Notice is delivered to the banned individual;
3. The development or location at which the incident occurred;

4. The signature of the designated ECC/HANH employee banning the individual;
5. The date, time and place the person was encountered for the offense;
6. The reason(s) for banning

ECC/HANH's No Trespass list shall be served by a judicial marshal to the trespassed person's last known place of residence, and the marshal will provide ECC/HANH with information as to how such notice was delivered, and will make best efforts to serve the person in hand. No legal action will be taken against any individuals until ECC/HANH has confirmed that the Trespassed Person has received actual notice of their placement on the Trespass List.

Once the Trespass Notice has been delivered, copies shall be distributed by ECC/HANH as follows:

- The New Haven Police Department,
- ECC/HANH Officers in Residence and all law enforcement officers working as agents for ECC/HANH,
- All ECC/HANH Site Management offices,
- All ECC/HANH Security Officers/Consultants.

The names of all Trespassed Persons placed on the ECC/HANH's No Trespass List shall be updated as necessary or as often as is determined by the Executive Director/President.

In the event a Trespassed Person is observed on any ECC/HANH Property by an ECC/HANH employee or resident, he/she should contact the Police Department for assistance. ECC/HANH employee or resident will be required to attest to the time, date, and location the Trespassed Person was observed on ECC/HANH Property by completing an Incident Report.

IV. Appeal Process

At the time of placement on the Elm City Communities/Housing Authority of the City of New Haven's (ECC/HANH's) No Trespass List, an interested ECC/HANH resident may request a grievance hearing to remove a Trespassed Person from the Trespass List.

A request for a grievance hearing of the Authority's determination must be submitted to the Legal Department within ten (10) days following issuance of the Trespass Notice. ECC/HANH will provide the grieving party with the date, time, and place of the hearing within a reasonable

amount of time. Should the grieving party fail to appear at the hearing, the determination of the Authority shall be final and such Trespass Notice shall remain in effect. The grievance hearing shall be conducted by a Hearing Officer or Hearing Panel which shall be a designee of the Executive Director/President, but not the person or a subordinate of that person who made the No Trespass determination. The grieving party shall have the right to provide the Hearing Officer or Hearing Panel with any relevant documents and may bring a representative and/or relevant witnesses to the hearing.

The Hearing Officer or Hearing Panel will make a determination which will be provided to the grieving party in writing.

The following is a list of offenses and length of time a trespassed person would remain on the no trespass list.

1. Verbal or physical confrontation - *1 year*
2. Damage to property - *1 year*
3. Drug related criminal activity on the property - *3 years*
4. Criminal activity that threatens the health, safety and right to peaceful enjoyment - *5 years*
5. Violence or threat of violence - *5 years*
6. Criminal activity involving the use or threatened use of a weapon or instrument - *5 years*
7. Sex offense subject to lifetime registration - lifetime *ban*
8. Manufacture or production of methamphetamine on the premises of federally assisted housing- lifetime *ban*

V. Removal from Trespass List

Persons listed on the Trespass List may not be removed by anyone except in consultation with the Executive Director/President or designee. Upon expiration of trespass notice person shall be removed from the trespass list. Beyond the initial appeal period, listed in section IV-1, affected resident may request an appeal once per year.

NOTICE TO NON-RESIDENTS

ECC/HANH MAINTAINS A LIST OF INDIVIDUALS BANNED FROM ENTERING ECC/HANH PROPERTY WHEN NOT UNDER THE SUPERVISION OF AN ECC/HANH RESIDENT OR ECC/HANH PERSONNEL. INDIVIDUALS WHO HAVE BEEN PLACED ON THE TRESPASS LIST, AND NOTIFIED OF THAT PLACEMENT, ARE SUBJECT TO ARREST AND PROSECUTION IF THEY SUBSEQUENTLY ENTER ECC/HANH PROPERTY WITHOUT AN INVITATION. YOU WILL BE CONSIDERED A TRESPASSER ON THE PREMISES AND SUBJECT TO ARREST AND PROSECUTION WITHOUT FURTHER NOTICE IF ANY OF THE FOLLOWING APPLIES TO YOU:

1. YOU ARE NOT AN AUTHORIZED GUEST OR VISITOR OF A RESIDENT OR EMPLOYEE OF HOUSING AUTHORITY OF NEW HAVEN (ECC/HANH) AND REMAIN ON ECC/HANH PROPERTY.
2. YOU ENGAGE IN ACTIVITIES THAT THREATEN THE HEALTH SAFETY, AND RIGHT TO PEACEFUL ENJOYMENT OF ECC/HANH RESIDENTS, AUTHORIZED VISITORS OR GUESTS, ECC/HANH EMPLOYEES, OR REPRESENTATIVE AGENTS AS DETERMINED BY ECC/HANH.
3. YOU ENGAGE IN ANY ILLEGAL ACTIVITY ON THE PREMISES.
4. YOU COMMIT A PUBLIC NUISANCE, INCLUDING DRUNKENNESS, AND OTHER DISORDERLY, LEWD, OR LASCIVIOUS CONDUCT ON ECC/HANH PROPERTY.
5. YOU DAMAGE, DESTROY, VANDALIZE, DEFACE, OR OTHERWISE REDUCE THE VALUE OF REAL AND/OR PERSONAL PROPERTY OF ECC/HANH EMPLOYEES, RESIDENTS, AGENTS, VISITORS, GUESTS, CONTRACTORS, LAW ENFORCEMENT OFFICIAL, OR OTHER MEMBER OF THE PUBLIC.
6. YOU LOITER OR OTHERWISE FAIL TO HAVE ANY LEGAL BUSINESS ON ECC/HANH PROPERTY.
7. YOU LITTER OR PARTICIPATE IN ILLGEAL DUMPING ON ECC/HANH PROPERTY.

ECC/HANH ADMISSION AND OCCUPANCY PLAN (ACOP) ADDENDUM 1
HUD COVID-19 WAIVERS

OVERVIEW

Due to the COVID-19 pandemic, HUD issued Notice PIH 2020-05 on April 10, 2020, “COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program.

In accordance with the Notice, ECC/HANH has made the following changes to the operating policies and procedures in the Admissions and Occupancy Policy.

PUBLIC HOUSING PROGRAM WAIVERS

PH-4: ACOP: Adoption of Tenant Selection Policies
Regulatory Authority: 24 CFR § 960.202(c)(1)

The regulation requires that any revisions to the Admissions and Occupancy Policy (ACOP) must formally adopted by the Board of Commissioners or other PHA officials. HUD is waiving this requirement to permit ECC/HANH to adopt and implement changes to the ACOP on an expedited basis, without formal board approval. As an alternative requirement, any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable following June 30, 2020, but no later than July 31, 2020. Please note that the requirement for tenant selection policies to be consistent with the fair housing and equal opportunity at § 5.105 remains in effect.

Period of Availability: The period of availability ends on July 31, 2020.

PH-9: Review and Revision of Utility Allowances
Regulatory Authority: 24 CFR § 965.507

ECC/HANH will delay the review and revision to the utility allowances schedule for the various housing types and utility sources.

Revisions to the Utility Allowance will be effective on January 1, 2021 and ECC/HANH will allow retroactive payments accordingly.

Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed by the end of 2020.

PH-10: Tenant Notifications for Changes to Project Rules and Regulations
Regulatory Authority: 24 CFR § 966.5

ECC/HANH is required by this regulation to provide 30-day notice to impacted families for changes to policies, rules and special charges. ECC/HANH is waiving the requirement to provide such advance notice, except advance notice must be provided for any changes related to tenant charges.

Period of Availability: The period of availability ends on July 31, 2020.

PHA Reporting Requirements on HUD Form 50058.
Regulatory Authority: 24 CFR Part 908, § 982.158
Sub-regulatory Guidance: PIH Notice 2011-65

ECC/HANH must submit form HUD-50058 no later than 60 calendar days from the effective date of any action recorded on line 2b of the form HUD-50058 or form HUD-50058 MTW. HUD is waiving the 60-day deadline and providing that ECC/HANH must submit form HUD-50058 or HUD-50058 MTW for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action.

Period of Availability: The period of availability ends December 31, 2020.

WAIVERS APPLICABLE TO BOTH PUBLIC HOUSING AND HCV PROGRAMS

PH: Family Income and Composition: Annual Examination Income Verification requirements
Regulatory Authority: 24 CFR 5.233(a)(2)
Sub-regulatory Guidance: PIH Notice 2018-18

For annual reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

Period of availability: The period of availability ends July 31, 2020.

PH: Family Income and Composition: Interim Examinations
Statutory Authority: Section 3(a)(1) of the USHA of 1937
Regulatory Authority: 24 CFR 5.233(a)(2) – HCV

Regulatory Authority: 24 CFR 982.51 (c)(2) – HCV
Sub Regulatory Guidance: PIH Notice 2018-18

For interim reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

(No change) Period of availability: The period of availability ends July 31, 2020.

PH: Enterprise Income Verification (EIV) Monitoring
Regulatory Authority: 24 CFR 5.233
Sub-regulatory Guidance: PIH Notice 2018-18

The mandatory monitoring of the following EIV reports have been waived.

- Deceased Tenants Report
- Identity Verification Report
- Immigration Report
- IVT Report
- Multiple Subsidy Report
- New Hires Report

Period of availability: The period of availability ends on July 31, 2020.

PH: Family Self Sufficiency (FSS) Contract of Participation Contract Extension
Regulatory Authority: 24 CFR 984.303(d)

ECC/HANH will extend the term of a family’s contract of participation beyond the two (2) years for “good cause” during this period.

Period of availability: The period of availability ends on December 31, 2020.

Adopted by the Board of Commissioners July 21, 2020.

Resolution #07-61/20R

ECC/HANH ADMISSION AND OCCUPANCY PLAN (ACOP) ADDENDUM 2

HUD COVID-19 WAIVERS

OVERVIEW

Due to the COVID-19 pandemic, HUD issued Notice PIH 2020-05 on April 10, 2020, “COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program.

In accordance with the Notice, ECC/HANH has made the following changes to the operating policies and procedures in the Admissions and Occupancy Policy.

On July 2, 2020 HUD issued Notice PIH 2020-13 (HA), Rev 1 which supersedes Notice PIH 2020-05 and essentially extends the period of availability for certain waivers and offers additional waiver not included in Notice PIH 2020-05.

PUBLIC HOUSING PROGRAM WAIVERS

PH-4: ACOP: Adoption of Tenant Selection Policies **Regulatory Authority: 24 CFR § 960.202(c)(1)**

The regulation requires that any revisions to the Admissions and Occupancy Policy (ACOP) must formally adopted by the Board of Commissioners or other PHA officials. HUD is waiving this requirement to permit ECC/HANH to adopt and implement changes to the ACOP on an expedited basis, without formal board approval. As an alternative requirement, any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable following June 30, 2020, but no later than July 31, 2020. Please note that the requirement for tenant selection policies to be consistent with the fair housing and equal opportunity at § 5.105 remains in effect.

HUD is waiving this requirement to permit PHAs to adopt and implement changes to the ACOP on an expedited basis, without formal board approval, through September 30, 2020. Any informally adopted revisions under this waiver authority must be formally adopted no later than December 31, 2020.

Period of Availability: The extended period of availability to informally adopt changes to the PHA’s administrative plan (ACOP) ends on September 30, 2020; the PHA must formally adopt such revisions no later than **December 31, 2020.**

(PH-5: Community Service and Self-Sufficiency Requirements (CSSR))
Statutory Authority: Section 12(c) of the USHA of 1937
Regulatory Authority: 24 CFR 960.603 (a) and 960.603 (b)

ECC/HANH will suspend the community service and self sufficiency requirement. Family's will not be subject to the requirement at the next annual re-examination and will be listed on the HUD-50058 as exempt or pending.

Period of Availability: The period of availability ends on **March 31, 2021.**

PH-9: Review and Revision of Utility Allowances
Regulatory Authority: 24 CFR § 965.507

ECC/HANH will delay the review and revision to the utility allowances schedule for the various housing types and utility sources.

The revised Utility Allowances will be effective January 1, 2021. If the effective dates changes beyond January 1, 2021, any retroactive payments to January 1, 2020 will be provided to the residents.

Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed by **December 31, 2020.**

PH-10: Tenant Notifications for Changes to Project Rules and Regulations
Regulatory Authority: 24 CFR § 966.5

ECC/HANH is required by this regulation to provide 30-day notice to impacted families for changes to policies, rules and special charges. ECC/HANH is waiving the requirement to provide such advance notice, except advance notice must be provided for any changes related to tenant charges.

PHAs must still provide adequate notification to impacted families within 30 days of making such changes. HUD encourages PHAs to give advance notice to the extent feasible.

Period of Availability: The period of availability ends on December 31, 2020.

PHA Reporting Requirements on HUD Form 50058.
Regulatory Authority: 24 CFR Part 908, § 982.158
Sub-regulatory Guidance: PIH Notice 2011-65

ECC/HANH must submit form HUD-50058 no later than 60 calendar days from the effective date of any action recorded on line 2b of the form HUD-50058 or form HUD-50058 MTW. HUD is waiving the 60-day deadline and providing that ECC/HANH must submit form HUD-50058 or HUD-50058 MTW for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action.

Period of Availability: The period of availability ends December 31, 2020.

WAIVERS APPLICABLE TO BOTH PUBLIC HOUSING AND HCV PROGRAMS

PH: Family Income and Composition: Annual Examination Income Verification requirements

Regulatory Authority: 24 CFR 5.233(a)(2)

Regulatory Authority: 24 CFR 960.259(c)

Sub-regulatory Guidance: PIH Notice 2018-18

For annual reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

Period of availability: Extended to December 31, 2020

PH: Family Income and Composition: Interim Examinations

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR 5.233(a)(2) – HCV

Regulatory Authority: 24 CFR 982.51 (c)(2) – HCV

Sub Regulatory Guidance: PIH Notice 2018-18

For interim reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

The effective date of the interim rent decrease will be the first day of the month after the event which caused the loss of income. Such a change would be consistent with the requirements for multifamily housing set forth in HUD-Handbook 4350.3 at Chapter 7 c. 7-13.c.2. which specifically cites first of the month after the loss of a job as an example of the effective date (first of the month after the event causing the loss of income). A resident may request a grievance hearing for a potential rent calculation error, if they believe the effective date of the interim is incorrect.

Period of availability: Extended to December 31, 2020)

PH: Enterprise Income Verification (EIV) Monitoring

Regulatory Authority: 24 CFR 5.233

Sub-regulatory Guidance: PIH Notice 2018-18

The mandatory monitoring of the following EIV reports have been waived.

- Deceased Tenants Report
- Identity Verification Report
- Immigration Report
- IVT Report
- Multiple Subsidy Report
- New Hires Report

Period of availability: Extended to December 31, 2020

PH: Family Self Sufficiency (FSS) Contract of Participation Contract Extension

Regulatory Authority: 24 CFR 984.303(d)

ECC/HANH will extend the term of a family's contract of participation beyond the two (2) years for "good cause" during this period.

Period of Availability: The period of availability during which the PHA may extend the family's contract of participation using COVID-19 as the "good cause" ends on December 31, 2020.

PH-12: Public Housing Agency Annual Self-Inspections

Statutory Authority: Section 6(f)(3) of the USHA of 1937

Regulatory Authority: 24 CFR § 902.20(d)

The statute requires PHAs which own or operate public housing to make an annual inspection of each public housing project to determine whether units in the project are maintained to applicable standards and remain safe for residents. HUD is waiving the requirement that the PHA must inspect each project during CY 2020. Additionally, it is recommended that PHAs continue to conduct exterior/site inspections or maintenance evaluations in compliance with social distancing requirements outlined by the CDC.

Period of Availability: The period of availability ends on December 31, 2020.

Adopted by the Board of Commissioners October 20, 2020.

Resolution #10-96/20-R

ECC/HANH ADMISSION AND OCCUPANCY PLAN (ACOP) ADDENDUM 3

HUD COVID-19 WAIVERS

OVERVIEW

Due to the COVID-19 pandemic, HUD issued Notice PIH 2020-05 on April 10, 2020, “COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program.

In accordance with the Notice, ECC/HANH has made the following changes to the operating policies and procedures in the Admissions and Occupancy Policy.

On July 2, 2020 HUD issued Notice PIH 2020-13 (HA), Rev 1 which supersedes Notice PIH 2020-05 and essentially extends the period of availability for certain waivers to December 31, 2020 and offers additional waiver not included in Notice PIH 2020-05.

On November 30, 2020, HUD issued PIH Notice 2020-33(HA), Rev 2 which supersedes Notices PIH 2020-05, PIH 2020-13 and extended the period of availability to June 30, 2021.

On May 4, 2021 HUD issued PIH Notice 2021-14, Rev 3 (HA) which supersedes Notices PIH 2020-33, PIH 2020-13 and PIH 2020-05 and essentially extends the period of availability for certain waivers and offers additional waiver not included in Notice PIH 2020-33.

PUBLIC HOUSING PROGRAM WAIVERS

PH-4: ACOP: Adoption of Tenant Selection Policies **Regulatory Authority: 24 CFR § 960.202(c)(1)**

The regulation requires that the PHA policies in the ACOP must be duly adopted and implemented. HUD is waiving this requirement to permit PHAs to adopt and implement changes to the ACOP on an expedited basis, without formal board approval, through September 30, 2021. Any informally adopted revisions under this waiver authority must be formally adopted no later than December 31, 2021.

Extended Period of Availability: The period of availability to informally adopt changes to the ECC/HANH ACOP ends on September 30, 2021; ECC/HANH must formally adopt such revisions no later than December 31, 2021.

PH-5: Community Service and Self-Sufficiency Requirements (CSSR)
Statutory Authority: Section 12(c) of the USHA of 1937
Regulatory Authority: 24 CFR 960.603 (a) and 960.603 (b)

ECC/HANH will suspend the community service and self-sufficiency requirement. Families will not be subject to the requirement at the next annual re-examination and will be listed on the HUD 50058 as exempt or pending.

This waiver is no longer applicable and is superseded by item 12.e.: Community Service and Self-Sufficiency Requirement (CSSR) Suspension.

Please refer to item 12.e. for a description of HUD’s non-discretionary immediate suspension of the CSSR applicable to all PHAs operating a public housing program

12.e.: Community Service and Self-Sufficiency Requirement (CSSR) Suspension waives the requirement that each non-exempt adult resident of public housing 3 contribute 8 hours per month of community service and/or participation in an economic self-sufficiency program. This non-discretionary waiver also suspends enforcement of the requirement by all PHAs operating a public housing program

Due to the ongoing impact of the COVID-19 pandemic, shelter in place orders and many organizations having limited operations or volunteer opportunities, HUD is waiving this requirement and suspending enforcement of the CSSR in an effort to help prevent further spread of COVID-19. **This suspension is effective for all adult residents of public housing and is not discretionary for ECC/HANH.**

HUD initially established a discretionary waiver of the CSSR in Notice PIH 2020-05 (PH-5: Community Service and Self Sufficiency Requirement). This waiver supersedes PH-5 and is applicable regardless of whether a PHA previously adopted PH-5.

For PHAs that previously adopted PH-5, this waiver does not affect a PHA’s prior implementation of PH-5. This waiver will continue the suspension for families for whom the CSSR was suspended under PH-5 in addition to suspending the requirement for all adult residents of public housing.

Period of Availability: This waiver is effective for all annual reexaminations completed between the publication date of the notice through April 30, 2022.

PH-9: Review and Revision of Utility Allowances
Regulatory Authority: 24 CFR § 965.507

ECC/HANH will delay the review and revision to the utility allowances schedule for the various housing types and utility sources.

The revised Utility Allowances were effective January 1, 2021. If the effective dates changes beyond January 1, 2021, any retroactive payments to January 1, 2021 will be provided to the residents.

Extended Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed by **December 31, 2021**.

PH-10: Tenant Notifications for Changes to Project Rules and Regulations
Regulatory Authority: 24 CFR § 966.5

ECC/HANH is required by this regulation to provide 30-day notice to impacted families for changes to policies, rules and special charges. ECC/HANH is waiving the requirement to provide such advance notice, except advance notice must be provided for any changes related to tenant charges.

ECC/HANH must still provide adequate notification to impacted families within 30 days of making such changes. HUD encourages ECC/HANH to give advance notice to the extent feasible.

Extended Period of Availability: The period of availability ends on December 31, 2021.

PHA Reporting Requirements on HUD Form 50058.
Regulatory Authority: 24 CFR Part 908, § 982.158
Sub-regulatory Guidance: PIH Notice 2011-65

ECC/HANH must submit form HUD-50058 no later than 60 calendar days from the effective date of any action recorded on line 2b of the form HUD-50058 or form HUD-50058 MTW. HUD is waiving the 60-day deadline and providing that ECC/HANH must submit form HUD-50058 or HUD-50058 MTW for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action.

Period of Availability: The period of availability ended on December 31, 2020.

WAIVERS APPLICABLE TO BOTH PUBLIC HOUSING AND HCV PROGRAMS

PH: Family Income and Composition: Annual Examination Income Verification requirements
Regulatory Authority: 24 CFR 5.233(a)(2)
Regulatory Authority: 24 CFR 960.259(c)
Sub-regulatory Guidance: PIH Notice 2018-18

For annual reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material

discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

Extended Period of availability: Extended to December 31, 2021

PH: Family Income and Composition: Interim Examinations

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR 5.233(a)(2) – HCV

Regulatory Authority: 24 CFR 982.51 (c)(2) – HCV

Sub Regulatory Guidance: PIH Notice 2018-18

For interim reexaminations, ECC/HANH will waive the income verification hierarchy, including third party verifications and use of the Enterprise Income Verification (EIV) system and will accept self-certifications for income verification as the highest form of income verification. This may be accepted via telephone (but documented by ECC staff in written form), through email or postal mail or other electronic communications. ECC/HANH will address any material discrepancies at a later date and any incorrect reporting may result in corrections and adjustments.

The effective date of the interim rent decrease will be the first day of the month after the event which caused the loss of income. Such a change would be consistent with the requirements for multifamily housing set forth in HUD-Handbook 4350.3 at Chapter 7 c. 7-13.c.2. which specifically cites first of the month after the loss of a job as an example of the effective date (first of the month after the event causing the loss of income. A resident may request a grievance hearing for a potential rent calculation error, if they believe the effective date of the interim is incorrect.

Extended Period of availability: Extended to December 31, 2021

PH: Enterprise Income Verification (EIV) Monitoring

Regulatory Authority: 24 CFR 5.233

Sub-regulatory Guidance: PIH Notice 2018-18

The mandatory monitoring of the following EIV reports have been waived.

- Deceased Tenants Report
- Identity Verification Report
- Immigration Report
- IVT Report
- Multiple Subsidy Report
- New Hires Report

Extended Period of availability: Extended to December 31, 2021

PH: Family Self Sufficiency (FSS) Contract of Participation Contract Extension
Regulatory Authority: 24 CFR 984.303(d)

ECC/HANH will extend the term of a family’s contract of participation beyond the two (2) years for “good cause” during this period.

Extended Period of Availability: The period of availability during which the ECC/HANH may extend the family’s contract of participation using COVID-19 as the “good cause” ends on December 31, 2021.

PH-12: Public Housing Agency Annual Self-Inspections
Statutory Authority: Section 6(f)(3) of the USHA of 1937
Regulatory Authority: 24 CFR § 902.20(d)

The statute requires PHAs which own or operate public housing to make an annual inspection of each public housing project to determine whether units in the project are maintained to applicable standards and remain safe for residents. HUD is waiving the requirement that the PHA must inspect each project during CY 2020. Additionally, it is recommended that PHAs continue to conduct exterior/site inspections or maintenance evaluations in compliance with social distancing requirements outlined by the CDC.

Period of Availability: The period of availability ended on December 31, 2020.

NEW

PH and HCV-9: Eligibility Determination: Social Security Number and Citizenship Verification

Statutory Authority: 42 USC 1436a(d)(2) – HCV and Public Housing

Regulatory Authority: 24 CFR §§ 5.216(b)(2), (g), (h), 5.218, 5.508(b)(2)(ii), (b)(3)(ii), (g) – HCV and Public Housing

Sub-regulatory Guidance: Notice PIH 2012-10

As a result of the COVID-19 pandemic, HUD understands that documentation may be difficult to obtain, particularly for individuals and families experiencing homelessness, and remains aware that PHAs are also facing challenges accessing and verifying some information necessary for eligibility determinations. Accepting self-certifications and delaying the receipt of documentation and/or third-party verification may allow PHAs to serve families more quickly, including individuals experiencing homelessness. To address these challenges, HUD is waiving the requirement to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting applicants to the HCV and Public Housing programs. PHAs may adopt policies to admit applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 90 days of admission to be eligible for continued assistance, pending verification. If a family member appeals secondary verification of immigration documents, PHAs are reminded that assistance may not be delayed, denied,

reduced or terminated on the basis of immigration status pending the completion of the appeal as described in 24 CFR § 5.514(e). Additionally, PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

Period of Availability: The period of availability ends on December 31, 2021.

Adopted by the Board of Commissioners December 21, 2021.

Resolution #12-102/21-R

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

HA	Housing authority or housing agency
HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Alternative Non-Public Housing Rent. This is the monthly amount PHAs must charge non-public housing over-income (NPHOI) families, allowed by PHA policy to remain in a public housing unit and who have completed the 24 consecutive month grace period. The alternative rent is defined as the higher of Fair Market Rent (FMR) or subsidy.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Ceiling rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

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

Citizen. A citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered person. Because the new § 960.509 borrows heavily from the existing lease provisions in § 966.4, which use the term “covered person,” HUD is inserting the definition of “covered person” into § 960.102 to indicate that lease provisions cover the tenant, members of the tenant's household, guests, or others under the tenant's control.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. 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

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. 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.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set at no less than 80 percent of the applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any

Foster childcare payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency*.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities*.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minimum rent. An amount established by the PHA of zero to \$50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Non-Public Housing Over-Income Family (NPHOI family). This is the defined term for a family that is above the OI limit but is remaining in their unit, paying the alternative non-public housing rent. These families will no longer be public housing program (PHP) participants.

Over-Income Family. This was an existing term that previously referred to a family that is not a low-income family. The term has been revised in the final rule to now mean a family whose income exceeds the OI limit.

Over-income limit. This term was discussed and defined in the notice published by HUD on July 26, 2018 ([83 FR 35490](#)) and its September 17, 2019, proposed rule, but was not proposed to be codified as a defined term in the proposed rule. Upon reconsideration, HUD is codifying this definition in § 960.102. This limit is set by multiplying the very low-income level for the applicable area by a factor of 2.4.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family. A family residing in public housing:

- Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance, provided that the total amount over a six-month period is at least \$500.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD. **Secretary.** The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.