**Chapter 13**

**LEASE TERMINATIONS**

**INTRODUCTION**

This chapter contains the PHA’s policies for voluntary and mandatory termination of tenancy. These policies are contained in four parts:

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

Part II: Termination by PHA – Mandatory. This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the PHA’s options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate provided that the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA 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.

**☑ Decision Point:** **How much advance notice will the PHA require a family to give when the family terminates tenancy?**

Things to Consider

* The regulations specify that a notice to terminate the lease must be in writing and delivered to the property site office or the PHA central office or sent by pre-paid first-class mail, properly addressed. The regulations do not specify how much advance notice the family must give, but as with all PHA policies, the notification requirements must be reasonable.
* One of the purposes of requiring advance notice from a family is to provide the PHA with a general idea of where and when to expect vacancies so that those vacancies can be filled quickly. It is expected that the PHA will make the length of time reasonable for the family. A 30-day notice would in most cases be a reasonable length of time.
* There may be situations where, due to unforeseen circumstances, a family cannot give a full 30 days notice. Therefore, the policy allows the PHA to waive the 30 day requirement on a case-by-case basis.
* PHAs could require more or less than 30 days notice as their standard policy, depending on their administrative needs. In any case, the notice requirement must be consistent with state or local law. If your state or local law requires a notice period other than 30 days, the model policy should be edited accordingly.
* There will be some residents who will not give any notice, and this is addressed later in this chapter in part 13-III.C, under Family Absence from Unit.
* It is important to have the notice of termination signed by the family member who is responsible for the lease. The model policy allows for the head of household, spouse of the head or cohead’s signature to be on the notice.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If a family desires to move and terminate their tenancy with the PHA, they must give at least 30 calendar days’ advance written notice to the PHA of their intent to vacate. When a family must give less than 30 days’ notice due to circumstances beyond their control the PHA, 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.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**PART II: TERMINATION BY PHA – MANDATORY**

**13-II.A. OVERVIEW**

This section provides an overview of this Part II. **No policy decisions are required.**

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

The PHA must terminate tenancy if any family member fails to sign and submit any consent form required for reexamination.

**☑ Decision Point:** **Will the PHA establish a policy that revocation of consent to access financial records result in termination of assistance?**

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA has established a policy that revocation of consent to access financial records will result in termination of assistance in accordance with PHA policy.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

The PHA must terminate tenancy if the family fails to submit required documentation concerning any family member’s citizenship or eligible immigration status within required timeframes; USCIS primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. **No policy decisions are required**.

**13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), and Notice PIH 2018-24]**

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

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

**☑ Decision Point:** **Under what circumstances will the PHA defer a family’s termination and provide an additional 90-day period to comply with the SNN disclosure and documentation requirement?**

Things to Consider

* 24 CFR 5.218(c)(2) states that the PHA may defer termination and grant the resident an additional 90-day period to disclose an SSN, but only if the PHA determines that the reason individual was unable to comply was due to circumstances that could not have reasonably been foreseen and were outside of the family’s control *and* there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.
* Notice PIH 2018-24 gives examples of such circumstances with regards to addition of a new household member. These include, but are not limited to delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, etc. The default policy both lists specific examples and leaves room for other circumstances to be considered.
* Your PHA may want to consider other PHA policies where time extensions are granted for circumstances beyond the family’s control.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

PHA Policy

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

The PHA must terminate the lease if the family fails to accept the PHA’s offer of a lease revision to an existing lease. **No policy decisions are required.**

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

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing. **No policy decisions are required.**

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

Should a PHA 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, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household. **No policy decisions are required.**

**13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]**

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

**No policy decisions are required.**

**13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]**

**No policy decisions are required.**

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

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

* Terminate the family’s tenancy within six months of the PHA’s final notification of the end of the 24-month grace period; or
* Within 60 days of the PHA’s final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.
* The over-income limit does not apply to PHAs operating fewer than 250 public housing units that are renting to families whose annual income exceeds the low-income limit at the time of initial occupancy in accordance with 24 CFR 960.503. If the PHA is renting to those families because there are no income-eligible families on the PHA’s waiting list, the PHA should select Option 3. The PHA must also insert language in 3-II.A., Income Eligibility and Targeting, indicating the PHA’s policy.

**☑ Decision Point: Will the PHA terminate the tenancy of over-income families or charge them a higher rent?**

Things to Consider

* The PHA must identify in PHA policy which of the above options will apply to families who are over-income for 24 consecutive months.
* Option 1 states the PHA will charge over-income families a higher rent, rather than terminating their tenancy. HUD has acknowledged that higher-income families allow PHAs to more deeply subsidize lower-income families, and this policy will allow the PHA to continue to house over-income families without providing them subsidy or terminating their tenancy.
* FR Notice 2/14/23 states the calculation method for the alternative non-public housing rent. The rent is the greater of the applicable fair market rent (as defined in 24 CFR part 888, subpart A) for the unit or the amount of the monthly subsidy provided for the unit, which is determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund. HUD will publish funding amounts no later than December 31 each year. The published amount for the development will not automatically be the alternative rent. Instead, the PHA must determine what amount to charge by comparing the per unit subsidy amount to the applicable FMR and select the higher.
  + For the Public Housing Capital Fund, the amount of Capital Funds provided to the unit will be calculated as the per unit Capital Fund assistance provided to a PHA for the development in which the family resides for the most recent funding year for which Capital Funds have been allocated.
  + For the Public Housing Operating Fund, the amount of Operating Funds provided to the unit will be calculated as the per unit amount provided to the public housing project where the unit is located for the most recent funding year for which a final funding obligation determination has been made.
* Option 2 allows the PHA to terminate an over-income family’s assistance six months after the final over-income notification. The PHA may adopt policy for a shorter, but not longer, period.
* If the PHA wishes to create a hybrid policy allowing the PHA to terminate tenancy for some families and allowing other families to pay the non-public housing alternative rent, Option 3 should be selected and the PHA should identify those circumstances. The PHA has flexibility in the administration of over-income requirements, provided such policies are in compliance with the 1937 Act, all public housing regulations, and all applicable fair housing requirements.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2: Delete the model ACOP language and insert the following suggested language shown below.*

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will terminate the tenancy of the family six months after the final notification of the family’s over-income status in accordance with the continued occupancy policies below.

🞎 *Option 3: Delete the model ACOP language and insert the following suggested language shown below.*

The PHA operates fewer than 250 public housing units and is renting to families whose annual income exceeded the low-income limit at the time of initial occupancy because there are no income-eligible families on the PHA’s waiting list. In accordance with regulations, over-income regulations for tenant families do not apply.

🞎 *Option 4: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Over-Income Limit [Notice PIH 2023-03 HOTMA 103 FAQs, December 2024]**

**☑ Decision Point: How will the PHA calculate over-income limits and when will new over-income limits apply?**

Things to Consider

* Notice PIH 2019-11 requires that PHAs publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year.
* The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. For example, if the VLI for a one-person family was $36,000, the corresponding over-income limit would be calculated as follows: $36,000 x 2.4 = $87,840.

**CAUTION:** **You must insert information here. The model ACOP does not contain language that can be adopted as-is.**

🞎 *Option 1: Use the model ACOP language shown below, inserting the over-income limits.*

The PHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Family Size** | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| **Over-Income Limit** |  |  |  |  |  |  |  |  |

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

🞎 *Option 2: Delete the model ACOP language and insert the PHA’s policy.*

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

**☑ Decision Point: What happens if an over-income family subsequently experiences a decrease in income?**

Things to Consider

* If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family’s income is below the over-income limit, the PHA’s over-income policies no longer apply to the family.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Initial Notice of Over-Income Status [24 CFR 960.507(c)(1);** **Notice PIH 2023-03 HOTMA 103 FAQs, December 2024]**

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. FR Notice 2/14/23 states the required content of the notice.

**☑ Decision Point: How will the PHA provide the family with the required initial notice of their over income status?**

Things to Consider

* Notice PIH 2023-03 states that once a PHA determines that a family is over income, the PHA must notify the family and must make a note in the tenant file to calculate the family’s income again 12 months later.
* PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. The PHA must ensure effective communication using appropriate auxiliary aids and services, such as interpreters, transcription services, brailed materials, large print, and accessible electronic communications, in accordance with Section 504 and ADA requirements. This includes the availability, free of charge, of sign language or other types of interpretation. For persons with vision impairments, upon request, this may include materials in braille or on tape.
* Option 1 uses the standard 10 business day-time frame for notification found in the rest of the policy which complies with the requirement that notice be served to the family within 30 days after the income examination. The model policy also states that hearings requested by the family must be requested in accordance with PHA grievance policies in Chapter 14.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2: Delete the model ACOP language and insert the PHA’s policy.*

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

**☑ Decision Point: How will the PHA provide the family with the required second notice of their over income status?**

The PHA must conduct an income examination 12 months after the initial over-income determination, unless the PHA determined the family’s income fell below the over-income limit since the initial over-income determination. If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. FR Notice 2/14/23 states the required content of the notice.

Things to Consider

* PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. The PHA must ensure effective communication using appropriate auxiliary aids and services, such as interpreters, transcription services, brailed materials, large print, and accessible electronic communications, in accordance with Section 504 and ADA requirements. This includes the availability, free of charge, of sign language or other types of interpretation. For persons with vision impairments, upon request, this may include materials in braille or on tape.
* Both options use the standard 10 business day-time frame for notification found in the rest of the policy, which complies with the requirement that notice be served to the family within 30 days after the income examination. Both options below also state that hearings requested by the family must be requested in accordance with PHA grievance policies in Chapter 14.
* Option 1 includes that the PHA will provide an estimate of the non-public housing rent applicable to the family at the end of the 24-month period.
* Option 2 omits language stating the PHA will provide an estimate of the non-public housing rent.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2: Delete the model ACOP language and insert the language below.*

If a family’s income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, the PHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA’s over-income policies. The notice will also state that the family may request a hearing if the family disputes the PHA’s determination in accordance with PHA policies in Chapter 14. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

🞎 *Option 3: Delete the model ACOP language and insert the PHA’s policy.*

**Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023‑03; HOTMA 103 FAQs, December 2024]**

Unless the PHA determined the family’s income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over-income determination. If the family continues to be over income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. FR Notice 2/14/23 states the required content of the notice.

**☑ Decision Point: How will the PHA provide the family with the required final notice of their over income status?**

Things to Consider

* PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. The PHA must ensure effective communication using appropriate auxiliary aids and services, such as interpreters, transcription services, brailed materials, large print, and accessible electronic communications, in accordance with Section 504 and ADA requirements. This includes the availability, free of charge, of sign language or other types of interpretation. For persons with vision impairments, upon request, this may include materials in braille or on tape.
* Option 1 uses the standard 10 business day time frame for notification found in the rest of the policy which complies with the requirement that notice be served to the family within 30 days after the income examination. The model policy also states that hearings requested by the family must be requested in accordance with PHA grievance policies in Chapter 14.
* Option 1 mirrors the model policy above stating the PHA will charge the family the alternative public housing rent rather than terminating the family’s tenancy after six months. If the PHA instead adopted a policy to terminate the family’s tenancy, Option 2 should be selected. If the PHA adopted a hybrid approach to applying policies to over-income families, the PHA should select Option 3.
* Option 1 states that the notice will state the family’s new rent amount. Although not explicitly required under the regulation, the notice should state the family’s new rent amount. Further, Option 1 states that the PHA will provide the family with the new non-public hosing lease as required by the regulations.
* In addition, Option 1 states the time frame for the lease to be signed in accordance with the regulations. For families who do not sign the lease timely and therefore are subject to termination within six months, the regulations give the PHA the option to allow the family to sign the lease within the six-month window provided the family repays rent owed to the PHA. Option 1 adopts this provision. If the PHA does not want to allow for this option, this language should be deleted.
* PHAs cannot provide any federal assistance, including a utility allowance, to non-public housing over-income (NPHOI) families. Since the tenant is responsible for their utilities where units are individually metered, the tenant will receive and pay utility invoices either from the utility company or from the PHA based on what is metered and who owns the meter. Where the unit is not individually metered, the tenant would be charged an allocation of the total energy plus any surcharges with no utility allowance. Option 1 includes this information.
* Per HUD’s HOTMA 103 FAQs dated December 2024, NPHOI families who are not within the 24 consecutive month grace period, and subsequently are no longer public housing program participants, are not entitled to VAWA protections as prescribed in HUD regulations. However, they may be entitled to some housing protections for victims of interpersonal violence based on state and local law. Option 1 includes this language.
* Per 24 CFR 960.509(b)(6)(xii)(B), NPHOI families are required to abide by the smoke-free policies of the PHA. While the PHA pet policies aren’t addressed in 24 CFR 960.509, PHAs may apply the same policies and rules applicable for the property or they may permit NPHOI families to have one or more pets in their units per the additional terms to be found in the NPHOI lease. Option 1 states that both the PHA’s public housing smoke-free and pet policies apply to NPHOI families. If the PHA does not wish to apply public housing pet polices to these families, Option 1 should be edited.
* Option 1 also addresses regulatory requirements for PHA policy regarding the non-public housing lease. The PHA may add additional terms to the lease provided they are consistent with HUD regulations and state and local laws. The regulation at 24 CFR 960.509(b)(2) requires that PHA policy identify the lease term. Unlike the public housing lease, a 12-month term is not required. The PHA may choose to offer the family a month-to-month lease. The regulations make clear that upon expiration of the lease term, the lease shall not renew automatically, which is stated in the model policy. Further, 24 CFR 960.509(b)(3)(iv) also requires that PHA policy state when charges assessed under the lease are due. The lease must also provide that any previously paid security deposit will be applied to the tenancy upon signing the new lease.
* Option 1 also addresses the PHA’s option to provide non-public housing over-income (NPHOI) families with hearing and grievance rights as described in Notice PIH 2023-03. Since NPHOI families are no longer public housing families, Option 1 states the PHA will not provide such families with hearing and grievance rights. The PHA should amend Option 1 if the PHA wishes to provide such rights. If the PHA offers hearing and grievance rights, the lease may include procedure and may explain when procedures are available to the family.
* If the PHA selects Option 2, Notice PIH 2023-03 states that the PHA should be advised that the period before termination can be up to six months but could be less, as defined in PHA policy. Option 2 addresses this by stating the family’s tenancy will be terminated six months after the final notification of the family’s over-income status. The PHA may choose a shorter period, but not a longer period.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The PHA will not provide such families with hearing or grievance rights. Units occupied by NPHOI families continue to be part of the public housing inventory and are required to be inspected in the same way as units occupied by families in the public housing program. Further, NPHOI families are still required to abide by the PHA’s smoke-free policies as well as the PHA’s pet rules. NPHOI families are not entitled to VAWA protections as prescribed in HUD regulations but may be entitled to protections under state and local law.

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

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

NPHOI families will not receive a utility allowance. The family will be responsible for their utilities where utilities are individually metered. Where utilities are not individually metered, the NPHOI family will be charged an allocation of the total energy plus any surcharges with no utility allowance.

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

🞎 *Option 2: Delete the model ACOP language and insert the following suggested language shown below.*

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will terminate the tenancy of the family six months after the final notification of the family’s over-income status.

During the period before termination, the over-income family will continue to be a public housing program participant until their tenancy is terminated. The PHA will continue to charge the family rent in accordance with public housing regulations, will offer the family the choice between income-based and flat rent as required by the regulations, and will prorate rent for mixed families.

In the period after the end of the 24 consecutive month grace period but before their tenancy termination, the family may request an interim reexamination, but a decrease in income and the family’s rent will not reset the period before termination or enable the family to avoid termination.

The PHA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with state and local laws.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS**

**13-III.A. OVERVIEW**

This section provides an overview for Part III. **No policy decisions are required.**

**13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]**

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

This section provides HUD definitions of key terms used in this Part. **No policy decisions are required.**

**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.

**☑ Decision Point:** **What policies will the PHA establish relative to terminating tenancy when covered persons have violated the lease obligations not to engage in drug-related criminal activity?**

Things to Consider

* Although the policy states that the PHA will terminate tenancy when a covered person violates the lease obligations not to engage in drug-related criminal activity, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* To allow for both consistency and flexibility, the model ACOP gives examples of evidence, but does not limit evidence to these categories.
* If your PHA has established specific indicators or types of evidence to determine whether or not someone has engaged in drug-related criminal activity, the model ACOP language should be replaced or edited, to contain this information.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA 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.

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

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

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

**☑ Decision Point:** **What policies will the PHA establish relative to terminating tenancy when household members are engaged in drug use, or have a pattern of drug use that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents?**

Things to Consider

* Although the policy states that the PHA will terminate tenancy when a household member’s use or pattern of use of illegal drugs threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* To ensure consistency in the way staff handle terminations, the term *pattern of use* should be defined. You may wish to consult with your attorney to determine whether any state laws or tenant-landlord ordinances require the use of another definition. This same definition is used for *currently engaged in,* in Section 3-III.B. If you choose to change the definition of *pattern of use* here, you may also wish to change the definition of *currently engaged in,* in Chapter 3.
* The definition of *pattern of use* in this policy is consistent with the definition of *pattern of abuse* used later in this section. If the definition is changed here, the policy under Alcohol Abuse must also be changed.
* To allow for both consistency and flexibility, the model ACOP gives examples of evidence, but does not limit evidence to these categories.
* If your PHA has established specific indicators or types of evidence to determine whether or not someone is engaging in drug use, the model ACOP language should be replaced or edited, to contain this information.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

A pattern of illegal drug use meansmore than one incident ofany use of illegal drugs during the previous three months.

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

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**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 (includingPHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

**☑ Decision Point:** **What policies will the PHA establish relative to terminating tenancy when covered persons are engaged in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises?**

Things to Consider

* Although the policy states that the PHA will terminate tenancy when a covered person’s criminal activity threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* To ensure consistency in the way staff handle terminations, the term *immediate vicinity* should be defined.
* To allow for both consistency and flexibility, the model ACOP gives examples of evidence, but does not limit evidence to these categories.
* If your PHA has established specific indicators or types of evidence to determine whether or not someone is engaging in criminal activity that threatens health, safety, or peaceful enjoyment, the model ACOP language should be replaced or edited, to contain this information.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA 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 PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

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

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

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives 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, the PHA may, on a case-by-case basis, choose not to terminate the lease.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

**☑ Decision Point:** **What policies will the PHA establish relative to terminating tenancy when household members are engaged in alcohol abuse, or have a pattern of alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents?**

Things to Consider

* Although the policy states that the PHA will terminate tenancy when a household member’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* To ensure consistency in the way staff handle terminations, the term *pattern of abuse* should be defined. You may wish to consult with your attorney to determine whether any state laws or tenant-landlord ordinances require the use of another definition. This same definition is used for *currently engaged in,* in Section 3-III.B. If you choose to change the definition of *pattern of abuse* here, you may also wish to change the definition of *currently engaged in,* in Chapter 3.
* The definition of *pattern of abuse* in this policy is consistent with the definition of *pattern of use* used earlier in this section. If the definition is changed here, the policy under Illegal use of a Drug must also be changed.
* To allow for both consistency and flexibility, the model ACOP gives examples of evidence, but does not limit evidence to these categories.
* If your PHA has established specific indicators or types of evidence to determine whether or not someone is engaging in alcohol abuse, the model ACOP language should be replaced or edited, to contain this information.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

A pattern of such alcohol abuse meansmore than one incident ofany such abuse of alcohol during the previous three months.

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

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives 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, the PHA may, on a case-by-case basis, choose not to terminate the lease.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

**☑ Decision Point:** **What policies will the PHA establish relative to terminating tenancy when household members furnish false or misleading information concerning illegal drug use or alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers?**

Things to Consider

* Although the policy states that the PHA will terminate tenancy when a household member furnishes false or misleading information concerning illegal drug use or alcohol abuse, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* To allow for both consistency and flexibility, the model ACOP gives examples of evidence, but does not limit evidence to these categories.
* If your PHA has established specific indicators or types of evidence to determine whether or not someone has furnished such false or misleading information, the model ACOP language should be replaced or edited, to contain this information.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will terminate the lease if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

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

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**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, and grounds for termination. These violations can be divided into two categories:

* Failure to make payments due under the lease
* Failure to fulfill other household obligations as specified in the regulations

Since each of these categories of violations involves its own unique issues, they are addressed separately below.

**☑ Decision Point**: **What policies will the PHA establish relative to terminating tenancy when the family fails to make payments due under the lease?**

Things to Consider

* The model ACOP states that the PHA will terminate tenancy for failure to make payments due under the lease, including nonpayment of rent. Chapter 8 contains specific policies related to lease requirements for payment of rent and other charges, therefore, the model policy references that chapter.
* The model policy also considers it a violation of tenant obligations to be repeatedly late with payment of other charges due under the lease and has established, as a reasonable policy, that four such late payments within a 12-month period constitute a violation worthy of lease termination. If your PHA has established a different policy, the model ACOP language should be replaced or edited accordingly.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA 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 other charges due under the lease, including nonpayment of rent. Four late payments within a 12-month period shall constitute a repeated late payment.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**☑ Decision Point**: **What policies will the PHA establish relative to terminating tenancy when the family fails to fulfill other tenant obligations?**

Things to Consider

* According to the regulations, serious and repeated lease violations include failure to fulfill household obligations as described by the regulations [24 CFR 966.4(l)(2)(i)].
* These obligations help prevent the disturbance of neighbors, destruction of property, and living or housekeeping habits that cause damage to the unit or premises. Such violations cause potential threats to health, safety, and the right to peaceful enjoyment of others, and can also pose a threat to the financial solvency of the PHA. HUD regulations provide a list of tenant obligations which are required to be addressed in the lease.
* The model ACOP states that the PHA will terminate tenancy for failure to fulfill any of these obligations. If your PHA has established a different standard for any of these obligations, the model ACOP language should be replaced or edited, to contain this information.
* Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as a serious or repeated violation of the lease by the victim or threatened victim of such violence [see P.L. 109-162].

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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 the PHA 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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**☑ Decision Point**: **Will the PHA consider alternatives and other factors to allow the PHA to decide, on a case-by-case basis, not to terminate tenancy in the case of non-payment of rent or violation of tenant obligations?**

Things to Consider

* Similar to previous policies, the model policy here provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate tenancy.
* Studies have shown that evictions cause housing instability, an increased risk of homelessness, loss of employment, physical and mental health issues, and long-term negative consequences to families, especially children.
* Prior to reaching an eviction for non-payment of rent, if the family’s income is reduced, the family may request an interim redetermination to see if the current amount of rent may be changed going forward. Families may also request a minimum rent hardship exemption or a repayment agreement to prevent eviction for nonpayment of rent. PHAs may also allow persons with disabilities who receive Social Security income or other benefits to pay their rent after the first of the month to align with receipt of those payments.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

In making its decision to terminate the lease, the PHA 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, the PHA may, on a case-by-case basis, choose not to terminate the lease.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

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

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

HUD regulations state that the PHA may terminate tenancy for other good cause. Here the regulations provide a few examples of other good cause, but do not limit the PHA to only those examples, nor are PHAs required to terminate for the examples given.

The Violence Against Women Act prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as “other good cause” for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [see 24 CFR 5.2005(c)(1)].

**☑ Decision Point**: **Under what circumstances will the PHA choose to terminate tenancy for other good cause?**

Things to Consider

* The model ACOP states that the PHA will terminate tenancy for reasons listed under 24 CFR 966.4(l)(2)(iii) as other good cause. For families that have engaged in criminal activity, violate community service requirements or refuse an offer of a new lease, those issues are addressed in the previous sections concerning mandatory lease provisions and mandatory terminations, rather than in this section.
* This section does cover termination for fugitive felons or parole violators as provided as an option under 24 CFR 966.4(l)(5)(ii)(B). This section also adds reasons that, while not listed in the regulations, are considered essential to sound operation of the program. For example, while current 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, and do not require termination of tenancy, termination of such individuals who become subject to sex offender registration requirements during their tenancy can be seen as essential to sound program operation.
* If a PHA does not want to terminate tenancy based on any of the criteria in this section, the ACOP will have to be edited accordingly. Grounds for termination must be stated in the lease agreement as well as in the ACOP. PHAs are therefore advised to review both the ACOP and lease when making changes to either document in order to maintain agreement between them.
* The model ACOP includes a definition of abusive or violent behavior toward PHA personnel. This language matches language used in Section 3-III.C. If you choose to edit this definition here, it should also be edited in Chapter 3.
* The model policy sets a time limit (10 business days) for families to report births, adoptions, or court-awarded custody of children. For administrative ease, it uses the same standard as used throughout much of the ACOP. If the PHA wants to consider a different length of time, the ACOP will have to be changed accordingly. This policy is also contained in Section 9-III.B. Therefore, if the policy is changed here, it must also be changed in Chapter 9.
* Similar to previous policies, this policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate assistance.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will terminate the lease for the following reasons.

*Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or 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 the PHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size.

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

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

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

Failure to abide by the provisions of the PHA pet policy.

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

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

All firearms/weapons in the lawful possession of a resident, members of the resident’s household, and/or resident guest/visitor must be in accordance with federal, state, and local laws. The unlawful possession of firearms/weapons by a resident, members of the resident’s household and/or resident guest/visitor is prohibited and constitutes a material lease violation.

If a household member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

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

In making its decision to terminate the lease, the PHA 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, the PHA may, on a case-by-case basis, choose not to terminate the lease.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

The public housing regulations do not address family absences from the unit, however, in the housing choice voucher program, HUD states that the family must cooperate with the PHA for the purpose of determining whether the family is living in the unit. This is also important for public housing.

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA 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.

**☑ Decision Point: How many consecutive days may a family be absent from their unit before their tenancy will be terminated for other good cause?**

Things to Consider

* The PHA needs a policy on how long the family may be absent from the unit.
* The family may be absent from the unit for brief periods. In the housing choice voucher program, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.
* Since 180 consecutive calendar days is considered reasonable for the HCV program, the model ACOP adopts HUD’s maximum HCV standard of 180 consecutive calendar days as the policy for public housing.
* The model ACOP states that families must promptly notify the PHA when they will be gone for an extended period, and defines an extended period as being more than 30 calendar days. It further defines prompt notification as within 10 days of the start of the extended absence.
* This section of the model ACOP also addresses the issue of abandonment of the unit. State and local laws usually require certain procedures be followed, including waiting for a period of days prior to taking possession of the unit, in order to protect renters from abuse of this concept by property owners. The model ACOP states that the PHA will follow any state or local laws pertaining to abandonment before taking possession of the unit, but if the unit was left unsecured, the PHA will secure the property to prevent or discourage vandalism and other criminal activity.
* If the PHA wants to consider different lengths of time or other policies pertaining to family absences or abandonment, the ACOP will have to be changed accordingly.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

The family must promptly notify the PHA 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, the PHA 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, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Upon the PHA’s HOTMA 102/104 compliance date, the below section on the asset limitation is added:**

***Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]***

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination.

**☑ Decision Point: Will the PHA enforce the asset limitation on program participants?**

Things to Consider

* PHAs must establish policies in the ACOP regarding the asset limitation at reexamination. While the asset limitation is mandatory at admission, the PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement for program participants. If the PHA adopts a policy of enforcement or limited enforcement, the PHA may also adopt exception policies for different family types or other factors, provided the exceptions meet all civil rights and fair housing requirements.
* If the PHA chooses not to enforce the asset limitation, the PHA must apply the nonenforcement policy the same policy to all families within the entire public housing program. Nonenforcement policies must be included in the ACOP. In order to reduce administrative burden and allow participant families to remain in public housing, Option 1 of the model policy states the PHA will adopt a policy of total nonenforcement.
* If the PHA wishes to adopt a policy of enforcement, Option 2 should be selected. PHAs with an enforcement policy must initiate termination proceedings within six months of the income examination that determined the family was out of compliance. The PHA may delay termination for noncompliant families for up to but no longer than six months. Any enforcement policy, including the amount of time that a PHA will delay the initiation of termination proceedings, must be included in the PHA’s ACOP.
  + Note that PHAs are not required to complete the termination process by the six-month mark— rather, the termination process must be *initiated* by the six-month mark and not be delayed beyond that point.
* If the PHA wishes to adopt a limited enforcement policy with an option to cure, Option 3 should be selected. Limited enforcement differs from total enforcement in one regard: all families who are found to be out of compliance at reexamination would be provided the same opportunity to come back into compliance. Families may have up to but no longer than six months to demonstrate that they have come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA would not initiate termination proceedings. Limited enforcement policies may not provide families more than six months to come back into compliance except in the case of a reasonable accommodation where a family may be afforded more than six months to comply. PHA policy must address the timeframe for curing noncompliance. What families must do to cure noncompliance depends on why they were identified as out of compliance. Notice PIH 2023-27 lists examples of how families may cure noncompliance. When the family demonstrates they have cured noncompliance, the PHA must record this information in the family’s file and permit families to remain on the program.
* The PHA may also establish exceptions to the asset limitation for families that meet specified exception categories. These families will be subject to either total nonenforcement or limited enforcement, depending on the PHA’s exception policy. An exception policy may be combined with a limited enforcement policy for all other families not in the exception categories. PHAs may include more than one exception as part of any exception policy. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. All exception policies must comply with civil rights and fair housing statutes and requirements. Limited exception policies, which establish an opportunity to cure noncompliance, cannot provide families more than six months to cure these conditions. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.) In establishing a limited exception policy, PHAs may choose a period of delay that is less than six months. If the PHA wishes to identify exception categories, the PHA should select Option 4. **CAUTION: The model policy does not identify which exception categories the PHA will adopt.**
* The PHA may define multiple categories of exceptions. These exceptions may provide different policies to each of the exception categories.
* If PHAs adopt a written exception policy, families in the specified category (or categories) may receive total nonenforcement or limited enforcement. Option 3 of the model policy applies a limited enforcement policy to families in exception categories. The PHA may wish to edit this language to instead apply total nonenforcement to exception categories.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the PHA’s public housing program.

🞎 *Option 2:* *If the PHA wishes to adopt a policy of enforcement, delete the model ACOP language and insert the following suggested language shown below.*

The PHA has adopted a policy of enforcement of the asset limitation for all program participants. All families who are found to be out of compliance with the asset limitation at any annual or interim reexamination will have their assistance terminated within six months of the effective date of that reexamination. No family will be given an opportunity to cure noncompliance.

Within 10 days of completing the family’s reexamination in which the family violates the asset limitation, the PHA will provide the family with written notice stating the family is out of compliance with the asset limitation, and PHA policy calls for termination of assistance within six months. The notice will include the date the family’s assistance will be terminated and provide the opportunity for a grievance hearing in accordance with PHA policies in this chapter. This notice will serve as the notice of termination of tenancy.

🞎 *Option 3:* *If the PHA wishes to adopt a policy of limited enforcement, delete the model ACOP language and insert the following suggested language shown below.*

The PHA has adopted a policy of limited enforcement of the asset limitation for all program participants in which families are given the opportunity to cure noncompliance with the asset limitation. All families who are found to be out of compliance at any annual or interim reexamination will be provided up to but no longer than six months from the effective date of that reexamination to cure their noncompliance. Except for a reasonable accommodation for a person with disabilities, no family will be afforded more than six months to cure noncompliance.

Within 10 days of completing the family’s reexamination, the PHA will provide a written notice stating the family is out of compliance with the asset limitation, but PHA policy allows families up to six months to cure noncompliance. The notice will include the date assistance will be terminated if the family does not cure the noncompliance and provide the opportunity for a grievance hearing in accordance with PHA policies in this chapter.

What families must do to cure noncompliance will depend on why they are identified as noncompliant. The PHA will follow verification policies listed in Chapter 7 to verify the family is back in compliance.

If the family does not take corrective action to cure their noncompliance within six months, the PHA will provide notification of lease termination and the opportunity for a hearing in accordance with PHA policies in this chapter.

If the family demonstrates and the PHA verifies that the family is back in compliance within six months, the PHA will provide the family with written notification (which will also be placed in the family’s file) that they are no longer out of compliance, and the PHA will not initiate termination proceedings.

🞎 *Option 4:* *If the PHA wishes to establish exception categories for certain families, delete the model ACOP language and insert the following suggested language shown below.*

In general, the PHA has adopted a policy of enforcement of the asset limitation for all program participants. However, the asset limitation will not be enforced for participant families in the following exception categories:

**[Insert the PHA’s exception categories]**

Families who are out of compliance with the asset limitation at any annual or interim reexamination but fall into any of the PHA’s exception categories will be provided up to but no longer than six months from the effective date of that reexamination to cure their noncompliance. Except for a reasonable accommodation for a person with disabilities, no family in an exception category will be afforded more than six months to cure noncompliance.

Within 10 days of completing the family’s reexamination, the PHA will provide a written notice stating the family is out of compliance with the asset limitation, but PHA policy allows families in the PHA’s exception categories up to six months to cure noncompliance. The notice will include the date assistance will be terminated if the family does not cure their noncompliance and provide the opportunity for a grievance hearing in accordance with PHA policy in this chapter.

What families must do to cure noncompliance will depend on why they are identified as noncompliant. The PHA will follow verification policies listed in Chapter 7 to verify the family is back in compliance.

If the family does not take corrective action to cure their noncompliance within six months, the PHA will provide notification of lease termination and the opportunity for a hearing in accordance with PHA policy in this chapter.

If the family demonstrates and the PHA verifies that the family is back in compliance within six months, the PHA will provide the family with written notification (which will also be placed in the family’s file) that they are no longer out of compliance, and the PHA will not initiate termination proceedings.

Families who are out of compliance with the asset limitation at any annual or interim reexamination and do not fall into one of the exception categories listed above will have their assistance terminated within six months of the effective date of that reexamination. These families will not be given an opportunity to cure noncompliance. Within 10 days of completing the family’s reexamination in which the family violates the asset limitation, the PHA will provide the family with written notice stating the family is out of compliance with the asset limitation and PHA policy calls for termination of assistance within six months. The notice will include the date the family’s assistance will be terminated and providing the opportunity for a grievance hearing in accordance with PHA policy in this chapter. This notice will serve as the notice of termination of tenancy.

🞎 *Option 5:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**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 the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy. As a condition of continued tenancy, the PHA may require that any household member who participated in or was responsible for any offense no longer resides in the unit.

**☑ Decision Point:** **Will the PHA permit a family to continue to reside in public housing if the culpable family member leaves the unit?**

Things to Consider

* Allowing a family to continue to reside in public housing when a culpable family member leaves can be a sensible way to accommodate the needs of family members who were innocent of wrong-doing. However, the regulation does not address the problem of such an individual returning to the unit as a guest. The model ACOP includes a policy that requires the head of household to certify that the individual will not be permitted to visit or stay in the unit. The PHA could choose a policy that restricts only whether the individual stays in the unit overnight, rather than restricting all visits. However, prohibiting visits as well as staying as a guest should ensure that the individual will stay away from the unit entirely, with no gray areas.
* If the PHA believes that the former family member is continuing to stay in the unit despite the head of household’s certification, the policy in the model ACOP permits the PHA to require the family to provide information about the individual’s new address as evidence that the person has, in fact, moved from the unit. Having such a policy stated explicitly should facilitate the PHA’s efforts to ensure compliance with the family’s commitment to prohibit the offending individual’s access to the unit.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Repayment of Family Debts**

**☑ Decision Point: Will the PHA permit a family to continue to reside in public housing if the family owes money to the PHA, and if so, under what circumstances?**

Things to Consider

* The model ACOP states that families must repay debts in full or enter into a repayment agreement, within 30 days of receiving notice of the debt, in order for their tenancy to continue.
* If a PHA chooses to edit this policy and not offer repayment agreements, the policies in Part III of Chapter 16 regarding repayment agreements must also be revised.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

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

**☑ Decision Point: What standard of evidence will the PHA use to support terminations of tenancy?**

Things to Consider

* For administrative ease and consistency, the model ACOP relies on the concept of the preponderance of the evidence -- the standard used for evaluating termination for violent and drug-related criminal activities in the HCV program -- as the standard for evaluating all grounds for termination in public housing.
* There is no mention of the term “preponderance of evidence” in the public housing regulations, however, it is discussed in the housing choice voucher and moderate rehabilitation sections of the CFR. In the HCV program HUD permits the PHA to terminate assistance for violent and drug-related criminal activity if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.
* Whatever standard of evidence is selected here should match the standard selected in Chapter 3.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will use the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA 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 non-mandatory reason.

**☑ Decision Point:** **What circumstances will the PHA consider when deciding whether to terminate tenancy?**

Things to Consider

* The regulation gives the PHA the authority to consider all relevant circumstances. By establishing a local policy about the kinds of circumstances that will be considered, the PHA can help ensure that staff consistently take the same types of information into consideration when making their decisions. If your PHA would prefer to include different or additional criteria in the policy, you will need to edit the model ACOP accordingly.
* The model ACOP language clarifies that 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 will also be considered.
* Taking into consideration whether or not a false certification was signed by a family, makes a distinction between families who fail to report interim changes between reexamination and families who actually certify to incorrect information as part of the reexamination process.
* It is advisable for PHAs to establish a dollar threshold when considering the amount of underpaid rent to help ensure consistency among staff members. Because PHAs have varying needs and circumstances, the policy in the model ACOP does not include a threshold.
* Notice PIH 2015-19 states that the fact that someone has been arrested does not itself prove that the person has engaged in criminal activity and is not an acceptable reason to terminate assistance. Further, HUD does not recommend the adoption of a ‘one-strike’ policy for criminal activity. Therefore, the language in the model policy clarifies that the PHA will not rely on an arrest alone, but if evidence of an arrest is found, will instead consider other factors and circumstances surrounding the arrest. While HUD has stated that it may be advisable to wait until the arrest disposition, PHAs may continue to obtain and review police reports, records of disposition of any criminal charges, and/or other evidence associated with the arrest in order to make an eligibility determination.
* If you wish to amend the model policy, bear in mind that HUD’s Office of General Counsel has stated that it is not acceptable to adopt blanket policies for terminations for either arrests or convictions for criminal activity. Further, a policy that fails to consider the nature, severity, and recency of the circumstances surrounding an arrest or conviction may also be considered discriminatory under the Fair Housing Act.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents’ safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the PHA’s failure to terminate the tenancy

The effect of the PHA’s decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family’s recent history, and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

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

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

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

**☑ Decision Point:** **Will the PHA take into consideration the rehabilitation of the offending household member when deciding whether or not to terminate tenancy for illegal drug use or alcohol abuse?**

Things to Consider

* The PHA may permit a family to continue their tenancy if the household member who had committed the offense is participating in or has successfully completed a PHA-approved drug or alcohol rehabilitation program or has otherwise been successfully rehabilitated.
* Option 1 requires that the family member must have actually completed a rehabilitation program in order to continue tenancy.
* Under Option 2, the PHA may choose to continue tenancy if the family member has completed a rehabilitation program, is participating in such a program, or has otherwise been rehabilitated.
* These options are based on the premise that a PHA can be reasonably sure that the behavior that caused the lease violation will not occur again if the offending household member is participating in or has undergone such rehabilitation.
* If a PHA believes it is too risky to continue the family’s tenancy regardless of efforts to rehabilitate, the PHA may edit the model ACOP language or delete it and insert an alternative policy.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

For this purpose, the PHA will require the tenant to submit evidence of the household member’s successful completion of a supervised drug or alcohol rehabilitation program.

🞎 *Option 2:* *Delete the model ACOP language and insert the following suggested language shown below.*

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

For this purpose the PHA will require the tenant 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.

🞎 *Option 3:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Reasonable Accommodation [24 CFR 966.7]**

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

**☑ Decision Point: Do you want to elaborate on how the PHA will handle requests for reasonable accommodations related to termination of tenancy?**

Things to Consider

* Some PHAs have experienced problems with offering reasonable accommodations to deal with family offenses. For example, some families request reasonable accommodations when the family member’s disability was not related to the offense. Others have requested accommodations that will not prevent a recurrence of the offense. Policies elsewhere in the ACOP (see Chapter 2) discuss the PHA’s obligation to offer reasonable accommodations to family members with disabilities. Here, the intent of the policy is to clarify that any accommodation must directly address the problem for which the termination is being considered.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA 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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

This is simply a statement that the PHA’s eviction actions will be consistent with fair housing and equal opportunity provisions of HUD’s regulations. **No policy decisions are required.**

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

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

This section describes the two specific protections against termination that VAWA provides for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. **No policy decisions are required.**

**Limits on VAWA Protections [24 CFR 5.2005(d) and (e); FR Notice 8/6/13]**

This section describes the conditions under which a PHA retains the authority to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. The first does not require a policy decision. The second states that the PHA may terminate the tenancy if it can demonstrate an actual and imminent threat to other tenants or PHA employees.

**☑ Decision Point:** **What factors will the PHA consider in determining whether a tenant is an actual and imminent threat?**

Things to Consider

* Although VAWA does not define *actual and imminent threat*, the regulations at 24 CFR 5.2005(d)(2), (d)(3), and (e) provide standards for PHAs to apply when determining whether or not a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking poses such a threat. The model policy echoes and expands on these standards.
* While VAWA does not limit a PHA’s authority to terminate a victim’s tenancy if it can demonstrate that the tenancy poses an actual and imminent threat to others, the PHA is not required to take this action. If the PHA does take this action against someone who is protected from termination under the law, the burden of proof will fall on the PHA. Therefore, the PHA should not take this action without first considering whether some other action will eliminate the threat. The model policy states that the PHA will explore alternatives to termination, such as 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. This is consistent with 24 CFR 5.2005(d)(3), which states that termination “should be utilized . . . only when there are no other actions that could be taken to reduce or eliminate the threat.”
* The model policy makes clear that when the PHA determines that a victim’s tenancy poses an actual and imminent threat, the victim still has the right to due process and may challenge the determination in a grievance hearing or court proceeding.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA 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, stalking, or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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 the PHA’s determination that they are 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.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Documentation of Abuse [24 CFR 5.2007]**

This section addresses the PHA’s discretion to require documentation from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking who claim the protection that VAWA provides against termination.

**☑ Decision Point:** **When a tenant facing lease termination claims protection under VAWA, will the PHA require documentation of domestic violence, dating violence, sexual assault, or stalking?**

Things to Consider

* The model policy here is intentionally flexible. It calls for the PHA, as a general rule, to require documentation in accordance with the policies in section 16-VII.D of the model ACOP from any individual who claims the protection against termination of tenancy or assistance that VAWA provides for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. However, the model policy also reserves the PHA’s right to make exceptions to this general rule when appropriate.
* Routinely requiring documentation will discourage individuals from making false or frivolous claims for protection under VAWA. It will also allow the PHA to terminate assistance if an individual fails to provide acceptable documentation in a timely manner. As 24 CFR 5.2007(c) states, “In order to deny relief for protection under VAWA, a PHA . . . must provide the individual with a written request for documentation of the abuse.”
* Allowing exceptions to the general rule will permit the PHA to provide benefits when a victim’s statement is credible on its face or when there is other corroborating evidence of domestic violence, dating violence, sexual assault, stalking, or human trafficking (such as physical signs of abuse or the testimony of reliable witnesses).

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the PHA 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.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual’s file.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Terminating or Evicting a Perpetrator of Domestic Violence**

This section discusses the explicit authority that VAWA gives the PHA to bifurcate a lease so that it can terminate or evict a perpetrator of domestic violence without terminating or evicting the victim. As the section points out, this authority supersedes any state or local law to the contrary. However, when exercising this authority, the PHA must comply with all applicable local, state, and federal laws on eviction, termination of tenancy, and termination of assistance, as well as its own policies in these areas. Also, note that Notice PIH 2017-08 states that perpetrators should be given no more than 30 days’ notice of termination in most cases. For remaining family members, the PHA must not initiate eviction procedures until 30 days after the least bifurcation.

**☑ Decision Point:** **Under what conditions will the PHA bifurcate a lease in order to evict, remove, or terminate assistance to a perpetrator of criminal acts of physical violence without evicting, terminating assistance to, or otherwise penalizing the victim?**

Things to Consider

* The law protects the victim, not the perpetrator. If the perpetrator is evicted or otherwise removed and the victim is in good standing with the PHA, there will be no grounds for termination of the entire family and the PHA will have satisfied the law.
* The model policy parallels the model termination policies elsewhere in Chapter 13 in three ways:
  + It states the condition under which the PHA will bifurcate a lease and terminate the tenancy of a family member: namely, if the PHA determines that the family member has committed criminal acts of physical violence against another family member or others, as expressly permitted under VAWA.
  + It describes the factors the PHA will consider in making its determination.
  + It leaves the door open for the PHA to determine that an alternative solution, such as rehabilitation of the abuser, may be more appropriate in some cases.

If the PHA has structured its other termination policies differently, it may wish to restructure this one to match.

* The model policy takes into account the very real possibility that, when the PHA initiates a termination action against an abuser, the abuser may refuse to leave or may try to commit further acts of physical violence against the remaining family members. The model policy does not commit the PHA to take any specific action to protect the remaining family members. However, it does commit the PHA to take some affirmative action. Any modifications that the PHA makes to this portion of the policy should be consistent with VAWA-related statements in the PHA’s five-year and annual plans.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will bifurcate a family’s lease and terminate the tenancy of a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

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

If the PHA 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, the PHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the PHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING**

**13-IV.A. OVERVIEW**

This section provides an overview of Part IV. **No policy decisions are required.**

**13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(1)(ii) and 24 CFR 960.259]**

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

**☑ Decision Point: Under what circumstances will the PHA conduct criminal records checks on public housing residents?**

Things to Consider

* Although HUD authorizes PHAs to conduct criminal records checks on public housing residents for the purpose of lease enforcement and eviction, PHAs are not obligated to do so.
* There may be times when a criminal records check is essential to lease enforcement and eviction. However, conducting such checks on all adult household members on a routine basis could prove to be cost prohibitive. In order to be consistent and fair to all public housing residents while maintaining sound management practices, the model ACOP establishes certain thresholds based upon behavior which indicates a potential problem where such criminal records checks would prove to be helpful.
* In order to help facilitate the acquisition of such criminal and sex offender records, the model ACOP requires all adult household members to sign consent forms annually.
* If the PHA prefers and is able to conduct criminal records checks of all household members on a routine basis (usually annually), or wishes to establish a different set of thresholds than those suggested in the model ACOP, or chooses to do no criminal records checks on residents, the PHA needs to delete the model ACOP policy and choose one of the other options offered below.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2:* *Conduct criminal records checks on all adult household members annually. Delete the model ACOP language and insert the following suggested language shown below.*

The PHA will conduct criminal records checks on all adult household members on an annual basis, including sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

🞎 *Option 3:* *Conduct no criminal records checks on adult household members residing in public housing. Delete the model ACOP language and insert the following suggested language shown below.*

The PHA will not conduct criminal records checks on adult household members residing in public housing.

🞎 *Option 4:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**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)]**

**☑ Decision Point: How does the PHA handle the disclosure of criminal records to resident families?**

Things to Consider

* If the PHA is using the authority of 24 CFR 5.903 and 5.905 to obtain criminal and sex offender records there are specific protections afforded the tenant before any adverse action is taken. The model policy assumes this is the case.
* If the PHA is not in a jurisdiction where the authority of 24 CFR 5.903 and 5.905 is used to legally obtain criminal and sex offender registration records, the model ACOP language would provide the same safeguard to families where the data from such records is inaccurate.
* In either case, families must be given a reasonable time to dispute the accuracy and relevance of the information in the records. The model ACOP considers 10 business days to be an adequate length of time for the family to consider such a dispute.
* If the PHA does not conduct criminal records checks on residents, or is not in a jurisdiction where the authority of 24 CFR 5.903 and 5.905 is used to legally obtain such records and the PHA chooses not to provide the safeguards afforded in the model ACOP policy, the PHA should delete the model ACOP policy.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the PHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

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

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

🞎 *Option 2:* *The PHA does not conduct criminal records checks or does so in a jurisdiction where the authority of 24 CFR 5.903 and 5.905 is not used to obtain such records and the PHA chooses not to afford the family such safeguards. Delete the model ACOP language.*

🞎 *Option 3:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]**

**Form, Delivery, and Content of the Notice**

Notices of lease termination shall be in writing and delivered to the tenant or an adult member of the household or sent by first-class mail properly addressed to tenant. The PHA has options for delivery of the notice.

HUD suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

**☑ Decision Point: Will the PHA notice of lease termination include information on the right to request a reasonable accommodation?**

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for the PHA’s 504 coordinator.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**☑ Decision Point: If the PHA provides for remote hearings, how will the notice of termination reflect that the PHA requires that hearings be held remotely in certain circumstances? How will the notice reflect the PHA’s consideration of requests for remote hearings for certain criteria?**

Things to Consider

* See ACOP Guide 14-III.G for considerations of remote hearings.
* If the PHA does not offer remote hearings, the decision point may be deleted.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

When applicable, the notice will also state that the resident may request a remote hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**☑ Decision Point: How will the PHA deliver lease termination notices to resident families?**

Things to Consider

* The primary purpose of the rule is to assure that families are given proper notice. Since the best assurance that the notice was served is to hand-deliver it to an adult, the model ACOP uses that form of service as the preferred method. However, it is understood that this method will not be possible in all cases, so provision is made for this by sending the notice by first-class mail on the same day.
* Another option would be to send the notice via certified mail, with return receipt requested. However, a family could refuse to sign for the notice, and this process also takes longer and is more costly.
* The PHA needs to check to see if there are any requirements imposed by state or local law pertaining to the delivery of lease termination notices. Any state or local laws which are more demanding than the HUD requirements must be met.
* VAWA requires that PHAs include a copy of the form HUD-5382 and HUD-5380 with any PHA notification of eviction or termination of assistance.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the form HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking 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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

**☑ Decision Point: Other than for nonpayment of rent, how long will the PHA give for notices of lease termination?**

Things to Consider

* 24 CFR 966.4(k) states: (3) *Lease termination notice.*(i) The PHA must give written notice of lease termination of: (A) At least 30 calendar days in the case of failure to pay rent; (B) A reasonable period of time considering the seriousness of the situation (but not to exceed 30 days); (1) If the healthy or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or (2) If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or (3) If any member of the household has been convicted of a felony; (C) 30 days in any other case, except that if a State or local law allows a shorter notice period, such shorter notice shall apply.
* For notices of lease termination due to a tenant’s failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease.
* The model policy sets the notice period for all lease violations other than non-payment of rent at 30 days. To ensure compliance with the regulation, the policy clarifies that if a shorter notice period is allowed under State or local law (for violations other than non-payment of rent), the shorter notice will apply.
* PHAs may choose to set a shorter notice period, for violations related to health, safety, drugs or violent criminal activity, than for other violations as long as state law allows for it (see Option 2).
* The notice period and the time between the date of the termination notice and the proposed effective date of the termination should allow enough time for the grievance hearing process to be completed, whether it be a regular grievance hearing or an expedited grievance hearing (see Chapter 14 for an explanation of grievance hearing requirements).
* The PHA must not proceed with filing an eviction for nonpayment of rent if the tenant pays the alleged amount of rent owned within the 30-day notification period.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provided to tenants until the day after the day rent is due.

For all other lease terminations, the PHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

🞎 *Option 2:* *Replace the model ACOP language with the language shown below.* ***NOTE: The PHA would need to ensure this policy is consistent with state and/or local law.***

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provided to tenants until the day after the day rent is due.

The PHA will give written notice of \_\_\_ calendar days if the health and safety of other residents, PHA employees, or persons in the immediate vicinity is threatened, any member of the household is engaging in drug-related or violent criminal activity, or if any member of the household has been convicted of a felony.

For all other lease terminations, the PHA will give 30 days written notice.

If state or local law allows for a shorter notice period (for violations other than nonpayment of rent), such shorter notice will be given.

🞎 *Option 3:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**☑ Decision Point: Will the Notice to Vacate or Quit be combined with or run concurrently with the Notice of Lease Termination?**

Things to Consider

* As stated in Notice PH 2021-29, the Notice to Vacate that may be required under state or local law may be combined with (run concurrently), or may run consecutive to, the Notice of Lease Termination.
* The ability to have the 30-day notice run consecutive to any additional state or local notice requirements does not preempt any state or local law that provides greater or equal protection for tenants.
* The PHA’s decision whether to combine the Notice to Vacate with the termination notice or to run it concurrently must be made in accordance with the state and local law in the PHA’s jurisdiction. That is, while HUD views concurrent notices as permissible, some states may not allow them.
* Because requirements vary, the default policy cannot be adopted as-is. Instead, it provides a space for the PHA to select the option that works best for them while also being permitted under state and local law.

**CAUTION:** **You must insert information here. The model ACOP does not contain language that can be adopted as-is.**

🞎 *Option 1: Use the model ACOP language shown below, inserting whether the PHA will combine or run the notices concurrently.*

Any Notice to Vacate or Notice to Quit that is required by state or local law will ***[insert either “be combined with” or “run consecutive to”]*** with the Notice of Lease Termination under this section.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**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)]**

**☑ Decision Point: Will the notice of non-compliance also serve as the notice of termination or nonrenewal?**

Things to Consider

* The model policy clarifies that in the case of initial noncompliance, a separate notice of termination of tenancy will be issued only after the family fails to agree to cure the noncompliance.
* In the case of a notice of continued noncompliance, there is no further cure period allowed, therefore the notice of noncompliance will also serve as the termination of tenancy notice to the family.
* If the PHA decides to issue a separate termination notice following the notice of continued noncompliance, this policy will need to be edited accordingly. In addition, the policy in Section 11-I.E of the ACOP will also need to be revised.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

This section describes the additional items that must be contained in a notice of termination based on citizenship status. **No policy decisions are required.**

**13-IV.E. EVICTION**

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by 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.

If the family voluntarily moves by the deadline in their lease termination notice, an eviction action is not necessary.

**☑ Decision Point: What measures will the PHA take if the family does not voluntarily move by the deadline in their lease termination notice?**

Things to Consider

* It is assumed that if the PHA issued a lease termination notice, they want the family to move. So, if the family does not move, they will need to have the legal authorities intervene to return possession of the unit to the PHA.
* In most jurisdictions, court action is required in order to evict a family. However, in some jurisdictions evictions are handled through administrative actions without the involvement of the courts. If the latter is the case, the PHA must afford the tenant the opportunity for a pre-eviction hearing in accordance with the PHA grievance procedures (24 CFR 966.4(l)(4)(ii) (see Chapter 14 for information pertaining to grievance hearings).
* PHAs must follow the laws of their local jurisdiction in filing an eviction action. Being that court action is the most common, the model ACOP has adopted this as policy. If the PHA’s jurisdiction requires that evictions be handled through administrative actions replace the policy in the model ACOP with Option 2 below.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

🞎 *Option 2:* *Replace the model ACOP language with the language shown below.*

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the PHA will follow state and local landlord-tenant law in bringing an administrative action in accordance with the rule of law in the jurisdiction. The PHA will afford the tenant the opportunity for a pre-eviction hearing in accordance with the PHA grievance procedure.

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

**13-IV.F. NOTIFICATION TO POST OFFICE**

This section provides HUD requirements for notifying the post office when the PHA evicts a family for criminal activity. **No policy decisions are required.**

**13-IV.G. RECORD KEEPING**

**☑ Decision Point: What policies will the PHA have with regard to termination and eviction records?**

Things to Consider

* General record keeping policies are contained in Part V of Chapter 16. This policy identifies the specific information that will be kept pertaining to termination and eviction records.
* Such records are essential to the assessment of management operations under the Public Housing Assessment System (PHAS). The PHA must demonstrate it has adopted policies, implemented procedures and can document that it appropriately evicts any public housing residents who engage in certain activity detrimental to the public housing community in order to receive points under management operations (24 CFR 902.43(a)(5)). Enough information to support the PHA’s PHAS certifications should be available for confirmatory reviews.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the ACOP.  
Have you:

(1) Added or subtracted any exhibits at the end of the chapter?  Yes  No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?)  Yes  No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.

**☑ Decision Point: Are any changes required to this chapter?**

No. No changes to the model ACOP are needed.

Yes. Edits only. Edit and insert PHA language as appropriate.

Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.

**☑ Decision Point: Are changes required in other chapters as a result of changes to this chapter?**

Check the “Things to Consider” under each decision point to identify if changes to the model policy will require changes to policies in other chapters of the ACOP.

No. Changes to other chapters are not necessary.

Yes. Changes to the following chapters are also required: