**INTRODUCTION**

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

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take and the steps the PHA must take when terminating a family’s assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner’s right to terminate an assisted tenancy.

**PART I: GROUNDS FOR TERMINATION OF ASSISTANCE**

**12-I.A. OVERVIEW**

This section explains that assistance can be terminated either voluntarily or involuntarily. **No policy decisions are required.**

**12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

As a family’s income increases, the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

**☑ Decision Point:** **How will the PHA treat changes in family circumstances that occur within this 180 day period, and when must families report these changes?**

Things to Consider

* The regulation bases the termination requirement on the date a payment was last made on behalf of the family. This policy simply clarifies that a change in family circumstances must not only occur, but also must be reported to the PHA within that 180 day period, in order for housing assistance payments to resume.

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

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

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

**12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

**☑ Decision Point:** **Will the PHA specify how the family should inform the PHA when the family wishes to terminate assistance?**

Things to Consider

* The model plan specifies how the family should notify the PHA. Even though the PHA has no way to enforce this policy, it makes sense for the PHA to encourage a responsible family member to submit a signed, written request before instituting a voluntary termination. Having the policy in the administrative plan will help staff know what to tell families.
* Section 12.II-F. stipulates that the PHA must provide written notice whenever it terminates a family’s assistance. However, it might not be evident that notice would be required in a case where the family has requested the termination. The clarification here helps ensure that notice requirements will be followed in all situations.

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

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family’s assistance, the PHA will follow the notice requirements in Section 12-II.F.

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

**12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance in the circumstances listed below. The model plan suggests a local policy related to evictions, but not for the other circumstances.

**Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV programfor a serious or repeated violation of the lease. As discussed further in section 12-II.E of the model plan, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

**☑ Decision Point:** **If a family leaves its unit before a court decision has been made, or before the decision is enforced by law enforcement officials, will the PHA terminate the family’s assistance?**

Things to Consider

* A family may leave an assisted unit while an eviction request is being considered by the court or after the decision is made by the court but before the decision is enforced. In either case, the family will have left the unit without physical eviction by law enforcement officials. The model plan clarifies that physical removal is not required; a court decision qualifies as an eviction. If a family leaves an assisted unit before a court decision is made, no eviction will have taken place. However, the model plan emphasizes that the PHA may still take action against the family based on the lease violations that triggered the eviction process.
* The reason for termination of assistance only relates to “serious or repeated violation” of the lease, not simply for a violation of the lease. Therefore, the PHA must review each case to determine whether the circumstances would be classified as a “serious or repeated violation.”
* To help ensure consistency in PHA decisions, this policy provides examples of serious and repeated violations and also establishes a general criterion for the PHA to use when determining whether lease violations are serious and repeated.
* The definition of *serious and repeated lease violations* is also included in section 5-I.C. and Exhibit 12-1. If any changes are made to the definition here, they must also be made in Chapters 5 and 12.
* You should consult with your attorney to determine if any state law or tenant-landlord ordinance would affect this policy.

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

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the PHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

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

**Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination.

**☑ Decision Point:** **Will the PHA terminate assistance if the family revokes consent for the PHA to collect information from financial institutions?**

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

The PHA will also terminate assistance if the family revokes consent for the PHA to collect information from financial institutions.

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

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)]**

The PHA must terminate assistance 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; 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**.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participating 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 participant 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 plan language shown below. No changes to the model plan 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 participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

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

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

The PHA must terminate assistance if 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.**

**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.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not a person with disabilities receiving HCV assistance as of November 30, 2005, and is not residing with their parents in an HCV assisted household, the PHA must the terminate the student’s assistance if, at the time of reexamination, either the student’s income or the income of the student’s parents (if applicable) exceeds the applicable income limit. **No policy decisions are required.**

**Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-3]**

The PHA must immediately terminate program assistance for deceased single member households. **No policy decisions are required.**

**12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

**Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA's administrative plan to establish policies that permit the PHA to terminate assistance for certain types of offenses, including:

* Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
* Any 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
* Any household member has violated the family’s obligation not to engage in any drug-related criminal activity
* Any household member has violated the family’s obligation not to engage in violent criminal activity

***Use of Illegal Drugs and Alcohol Abuse***

**☑ Decision Point:** **What policies will the PHA establish relative to terminating assistance when household members are engaged in drug use or alcohol abuse, or have a pattern of drug use or 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 assistance when a household member’s use or pattern of use of illegal drugs or 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 assistance.
* To ensure consistency in the way staff handle terminations, the term *currently engaged in* 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 contained in Chapter 3. If you choose to change the definition here, it may also need to be changed in Section 3-III.B.
* To allow for both consistency and flexibility, the model plan 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 or alcohol abuse, the model plan language should be replaced or edited, to contain this information.

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

The PHA will terminate a family’s assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any 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.

*Currently engaged in* is defined as any 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, convictions, or eviction of household members related to the use of illegal drugs or 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 assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

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

***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

**☑ Decision Point:** **What policies will the PHA establish relative to terminating assistance when household members have violated the family obligation not to engage in drug-related or violent criminal activity?**

Things to Consider

* Although the policy states that the PHA will terminate assistance when a household member violates the family obligations not to engage in drug-related or violent 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 assistance.
* To allow for both consistency and flexibility, the model plan 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 or violent criminal activity, the model plan language should be replaced or edited, to contain this information.

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

The PHA will terminate a family’s assistance if any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent 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 assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

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

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c),   
24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E of the model administrative plan, the Violence against Women Act prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

**☑ Decision Point**: **Under what circumstances will the PHA choose to terminate assistance?**

Things to Consider

* The model plan states that the PHA will terminate assistance for all the reasons listed under 24 CFR 982.552(c) (including the violation of any family obligations) with the exception of failure to meet obligations under the FSS program as prohibited under 24 CFR 984.101(d). For a family that has been engaged in criminal activity, the issue is addressed under criminal activity, rather than in this section. If a PHA does not want to terminate assistance based on each of these criteria, the plan will have to be edited accordingly.
* The model plan includes a definition of abusive or violent behavior toward PHA personnel. This language matches language used in Chapter 3. If you choose to edit this definition here, it should also be edited in Section 3-III.C.
* 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 plan language shown below. No changes to the model plan are needed.*

The PHA **will** terminate a family’s assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally assisted housing in the last three years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with the Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

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

A family 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 assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

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

***Family Absence from the Unit [24 CFR 982.312]***

**☑ Decision Point: How many consecutive days may a family be absent from their unit before their assistance will be terminated?**

Things to Consider

* The PHA must establish a policy on how long the family may be absent from the assisted unit.
* The family may be absent from the unit for brief periods. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.
* In order to give families and the PHA maximum flexibility under the regulations, the model plan adopts the maximum standard of 180 consecutive calendar days.

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

If the family is absent from the unit for more than 180 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

🞎 *Option 2: Use PHA-established policy. Edit the model plan 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 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.
  + The PHA must not enforce the asset limitation at reexamination for VASH families.
* 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 HCV program. Nonenforcement policies must be included in the admin plan. In order to reduce administrative burden and allow participant families to remain in HCV, 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 admin plan.
  + 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 plan language shown below. No changes to the model plan 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 HCV program.

🞎 *Option 2:* *If the PHA wishes to adopt a policy of enforcement, delete the model plan 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 hearing in accordance with PHA policies in this chapter. This notice will serve as the notice of termination of assistance.

🞎 *Option 3:* *If the PHA wishes to adopt a policy of limited enforcement, delete the model plan 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 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 plan 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 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 hearing in accordance with PHA policy in this chapter. This notice will serve as the notice of termination of assistance.

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

***Insufficient Funding [24 CFR 982.454]***

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

**☑ Decision Point: How will the PHA determine which HAP contracts will be terminated if there is insufficient funding to continue assisting all current participants?**

Things to Consider

* Notice PIH-2005-9, Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005, states that PHAs should add termination policies due to insufficient funding to their administrative plans.
* Further, Notice PIH 2011-32, Policies and Procedures for Special Purpose Housing Choice Vouchers for Non- Elderly Disabled Families and Other Special Populations, requires that PHAs establish policies in the administrative plan regarding selection of special purpose voucher families if the PHA has stopped and subsequently resumed issuing vouchers after a funding shortfall, in addition to policies that address terminating special purpose voucher families should termination be necessary.
* The model plan does not include a default policy regarding how the PHA will determine the order in which HAP contracts are terminated, other than to simply state the requirement set forth under Notice PIH 2011-32 that families comprising the required number of special purpose vouchers be the last to be terminated. Instead we have for the most part identified approaches and issues for PHAs to consider, so that the PHA may add additional criteria and instructions into the policy as it sees fit. **NMA is not rendering a legal opinion on the HAP termination options included in this guide. PHAs are responsible for ensuring that the policy adopted is consistent with all applicable Federal, state and local laws.**
* Termination of HAP contracts should be a last resort. Therefore, the model plan language states that prior to terminating HAP contracts due to insufficient funding, the PHA will determine if other cost cutting measures can be implemented to resolve or diminish the funding shortfall.
* The model plan does not identify specific cost cutting measures that the PHA will take prior to termination of HAP contracts. This is due to the wide variation in local conditions. What is reasonable for one PHA may not be for another, or what may be a sensible strategy today may not be next month. PHAs need to have the flexibility to determine appropriate cost-cutting measures based on current conditions. The model plan language provides this flexibility.
* However, Notice PIH 2011-32 suggests that PHAs typically deal with funding shortfalls within a given year by ceasing to issue vouchers. The notice makes clear that if the PHA is administering special purpose vouchers and decides to stop issuing vouchers due to a funding shortfall, these families must be the first to be selected from the waiting list once the PHA begins issuing vouchers again. The notice also specifies that policies concerning this matter must be included in the administrative plan. In accordance with the notice, the model plan language meets this requirement.
* The Conference Report (H.Rpt. 108-792) accompanying the Consolidated Appropriations Act of 2005 (“the Act”) states that “Agencies shall ensure that current elderly and disabled voucher families be protected against significant impacts resulting from adjustments made by agencies to maintain their voucher programs within their 2005 budgets.”
* Although Congress explicitly mentioned the importance of protecting elderly and disabled voucher families in its conference report, PHAs must also be careful that their adopted policy does not violate fair housing laws by discriminating against any protected class (e.g. families with children.)
* There are a couple of different ways a PHA can approach this type of policy. The first is to base terminations on a family’s history of compliance with family obligations and other HCV program requirements. The second is to base it on issues unrelated to the family’s behavior. These can be random in nature or based on other objective criteria (e.g. length of time in the program).
* Terminations based on family behavior – noncompliance with family obligations and/or behavior that gives the PHA grounds to terminate assistance:
  + - Other policies in the model plan call for a family’s assistance to be terminated when family members violate family obligations or engage in certain criminal activity. In addition, the model plan states that the PHA will terminate assistance for the reasons authorized in 24 CFR 982.552 (with the exception of failing to meet FSS obligations).
    - However, the model plan also states that the PHA will consider alternatives to terminating assistance and other factors, allowing the PHA on a case-by-case basis, to choose not to terminate assistance in the circumstances described above. Therefore, it is likely that the PHA will always have a number of participants who have violated family obligations or other program requirements, but have been allowed to remain on the program.
    - When it is necessary to terminate HAP contracts due to insufficient funding, it makes sense for a PHA to start with the families who have violated program requirements in the past, rather than families who have fulfilled their family obligations all along. This approach is reasonable, fair, and more likely to be widely accepted by the PHA staff and board, residents, local government officials, and the general public.
    - PHAs must be mindful that in order for this type of policy to be successful and fair, PHAs must accurately and consistently document in the family file, family obligation violations and/or other behavior that can result in termination of assistance.
    - When developing this type of policy it is important to remember that not all family obligations are created equal. The policy should take into account the severity of a violation when determining the order in which families should be terminated. Those who commit a more serious violation such as intentionally under-reporting income, or engaging in criminal activity, drug use or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, should be terminated prior to those who commit a less serious violation such as failing to report the birth of a child within the PHA’s required time frame.
    - Categories of violations should be well defined, ranked in order of seriousness, and may have multiple components. For example, within the broader category of fraud the PHA could determine that those who currently owe the PHA money will be terminated prior to those who have already reimbursed the PHA. Or, families could be terminated according to ranges of dollar amounts owed to the PHA.
    - Under this approach, PHAs must also define the time period under consideration within each category. For example will the PHA look at violations within the past six months, twelve months, etc.?
    - The policy must also describe how families will actually be selected for termination within any given category. If you have 10 families that meet the first criteria and only 5 HAP contracts need to be terminated in order to operate within the annual budget authority, how will you select which 5 will be terminated? Will it be random? Will it be based on the date the violation or behavior occurred? Will it be based on the total number of violations?
    - Depending on the number of participants who fall into any given category, it may or may not be necessary to identify multiple categories of violations in order to have an adequate universe of families to terminate.
    - Following is an example of a termination policy taking into account the items above:

The PHA will terminate HAP contracts starting with Category 1 families. The PHA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

Category 1: Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the PHA will terminate HAP contracts according to the date the PHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the PHA will rank the notices for that date using a random method.

First, the PHA will terminate families who owe the PHA money but are not yet under repayment agreement.

Second, the PHA will terminate families who owe the PHA money, are under repayment agreement, but have made at least one late payment.

Third, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

Category 2: Families who committed program fraud or abuse 6-12 months ago.

* Terminations based on issues unrelated to family behavior:
  + - First in, first out. Under this option the PHA would terminate families according to the date of the family’s admission to the program, starting with those who have been receiving assistance the longest. As long as this type of policy exempts elderly and disabled families, it is consistent with the philosophy of “time limits” for housing assistance under HUD’s Flexible Voucher Program proposal, as well as the conference report recommendation to protect elderly and disabled families. NMA’s model policy reflects this industry standard approach.
    - Last in, first out. Under this option the PHA would terminate families according to the date of the family’s admission to the program, starting with those most recently admitted.
    - Random method. Under this option the PHA would randomly select families for termination.
    - When adopting this type of termination policy, PHAs should consider how elderly/disabled families will be protected (because these families are reasonably expected to require long-term housing assistance) and if other types of families will also be protected (e.g. families with children under age 18). For example, the PHA could choose to apply the selected criteria to families in the following order:

1. Non-elderly, non-disabled single member families.
2. Non-elderly, non-disabled families with no children under the age of 18.
3. Non-elderly, non disabled families with children under the age of 18.
4. Elderly and disabled families.
   * + Terminating families based on arbitrary grounds (last in, first out and random method) are the least desirable options and are likely to receive the most opposition from interested parties.

🞎 *Option 1:* *Use the model plan language shown below. Insert the HAP termination criteria as indicated.*

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs.

In the event that the PHA decides to stop issuing vouchers as a result of a funding shortfall, and the PHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the PHA resumes issuing vouchers, the PHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA’s annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members.

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran’s Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

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

**PART II: APPROACH TO TERMINATION OF ASSISTANCE**

**12-II.A. OVERVIEW**

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

**12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

This section describes the types of actions that constitute termination of a family’s assistance. **No policy decisions are required.**

**12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

When HUD regulations give the PHA discretion about terminating assistance the PHA may, at its sole discretion, terminate assistance or take one of the following alternative measures discussed in this section.

**Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

**☑ Decision Point:** **Will the PHA permit a family to continue receiving assistance if the culpable family member leaves the unit, and under what circumstances?**

Things to Consider

* Allowing a family to continue receiving assistance 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 plan 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 plan 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 assisted 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 plan language shown below. No changes to the model plan are needed.*

As a condition of continued assistance, the head of household must certify that the culpable family 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 family member’s current address upon PHA request.

🞎 *Option 2:* *Use PHA-established policy. Edit the model plan 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 receive assistance if the family owes money to the PHA, and if so, under what circumstances?**

Things to Consider

The model plan 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 assistance to continue.

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

If a family owes amounts to the PHA, as a condition of continued assistance, 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 plan language or delete it and insert the PHA’s policy.*

**12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

**Evidence**

For criminal activity, HUD permits the PHA to terminate assistance 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 [24 CFR 982.553(c)].

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

Things to Consider

* For administrative ease and consistency, the model plan relies on the concept of the preponderance of the evidence -- the standard used for evaluating termination for violent and drug-related criminal activities -- as the standard for evaluating all grounds for termination.
* Whatever standard of evidence is selected here should match the standard selected in Section 3-III.E.
* The definition of *preponderance of the evidence* is the same as is used in Chapters 3, 14, and 16. Therefore, any changes made to the definition here must also be made in those chapters.

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

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

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

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

**Use of Criminal Conviction Records after Admission [24 CFR 5.903]**

This section describes limits on the PHA’s ability to run criminal background checks after admission. **No policy decisions are required.**

**Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]**

# The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

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

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 plan accordingly.
* 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.
* The model plan language clarifies that in the case of program abuse, the dollar amount of the overpaid assistance 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 overpaid subsidy to help ensure consistency among staff members. Because PHAs have varying needs and circumstances, the policy in the model plan does not include a threshold.

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

The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

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

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

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

The PHA will require the participant 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.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family (See Chapter 16-IV.B. Repayment Policy, Criminal Prosecution for Program Fraud/Abuse).

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

**Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA’s decision to terminate the family’s assistance 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 assistance?**

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 plan (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 plan language shown below. No changes to the model plan are needed.*

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, 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 termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

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

**12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

**VAWA Protections against Termination**

This section describes the special protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. **No policy decisions are required.**

**Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

This section discusses two limitations on the VAWA protections against termination of assistance. The first does not require any policy decisions.

**☑ 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.
* Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD’s recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.
* While VAWA does not limit a PHA’s authority to terminate a victim’s assistance if it can demonstrate that the victim 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 plan states that the PHA will explore alternatives to termination, such as helping the victim relocate to a confidential location 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 plan 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 an informal hearing.

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

In determining whether a program participant 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 the property where the participant’s unit is located, 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 or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA’s determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

🞎 *Option 2: Use PHA-established policy. Edit the model plan 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 of assistance.

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

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-IX.D of the model plan from any individual who claims the protection against termination of 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 administrative plan language shown below. No changes to the model administrative plan are needed.*

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

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 administrative plan language or delete it and insert the PHA’s policy.*

**Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators.

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

* 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 12 in three ways:
  + It states the condition under which the PHA will terminate a family member’s assistance: 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.

* If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program.
* The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month.

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

The PHA will terminate assistance to 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 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-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

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

**12-II.F. TERMINATION NOTICE**

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family’s HAP contract and lease will also terminate when the family’s assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

**☑ Decision Point:** **Will the PHA always provide written notice of termination of assistance? If so, what will the notice contain?**

Things to Consider

* The model policy calls for the PHA to provide written notice of termination anytime a family’s assistance will be terminated, regardless of the reason. The PHA could send a notice only when required by HUD regulations.
* The model policy specifies that notices of termination of assistance will be sent to both family and owner. However, it does not specify that the content of the notices to both parties must be the same. The content can—and in some cases should—be different. For example, if the PHA is terminating a family’s assistance for cause, the PHA must state the reason in the notice to the family, but it should not include this information in the notice to the owner.
* The model policy specifies that the notice will state the date on which the termination will become effective, as recommended in the *Housing Choice Voucher Program Guidebook* [HCV GB, p. 15-7]. If the family is entitled to an informal hearing, this date should allow enough time for the hearing process to be completed.
* HUD does not stipulate how much notice must be provided before termination. The model policy uses the same general time frame for this type of notice as is used for the notice when the family’s share of the rent increases. However, since there will be occasions when the PHA cannot provide at least 30 days’ notice (such as when a single tenant dies or when a family vacates its assisted unit without informing the PHA), the model policy also allows for exceptions.
* Even though a family’s assistance will be terminated, the family may wish to continue renting the same unit. Therefore, the model policy states that, when appropriate, the PHA will use the notice of termination of assistance to advise the owner of the unit that they have a right to offer the family a separate, unassisted lease [HCV GB, p. 15-8].

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

Whenever a family’s assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family’s assistance will be terminated, the PHA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

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

The model policy calls for a participant claiming protection under VAWA to notify the PHA within 10 business days. This is the same amount of time that the model administrative plan allows for requesting an informal hearing (see section 16-III.C). If the PHA requires the participant to provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the participant would be entitled to additional time to provide the documentation (see section 16-IX.D of the model plan). PHAs are required to include information about the protections against termination afforded to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the Violence against Women Act (VAWA) in termination notices.

**☑ Decision Point:** **How will the PHA include VAWA information in notices of termination?**

Things to Consider

* The model policy here is consistent with the model policy on VAWA notification to program applicants and participants in section 16-IX.C of the model administrative plan. If the PHA deletes or edits the policy here, it should edit the policy in section 16-IX.C accordingly.
* The model policy calls for a participant claiming protection under VAWA to notify the PHA within 14 business days. This is the same amount of time that the model administrative plan allows for requesting an informal hearing (see section 16-III.C). If the PHA requires the participant to provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking the participant would be entitled to additional time to provide the documentation (see section 16-IX.D of the model plan).

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

Whenever the PHA decides to terminate a family’s assistance because of the family’s action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 14 business days.

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

**PART III: TERMINATION OF TENANCY BY THE OWNER**

**12-III.A. OVERVIEW**

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

**12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]**

**Serious or Repeated Lease Violations**

The owner is permitted to terminate tenancy for serious or repeated violations of the lease,including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking and the victim is protected from eviction by the Violence against Women Act (see section 12-II.E). **No policy decisions are required.**

**Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises. **No policy decisions are required.**

**Criminal Activity or Alcohol Abuse**

With some limitations imposed by VAWA, the owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest, or another person under the tenant’s control, commits certain types of criminal activity, is fleeing to avoid prosecution, has violated a condition of parole, or abuses alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. **No policy decisions are required.**

***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking. **No policy decisions are required.**

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. This section specifies what constitutes “other good cause” for termination of tenancy by the owner during the initial lease term, and following the initial lease term. **No policy decisions are required.**

**12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

This section explains owner eviction requirements.

**☑ Decision Point:** **Upon court-ordered eviction of an assisted family, what information is the owner required to provide to the PHA?**

Things to Consider

* Although the regulations require an owner to provide the PHA with any notice of eviction, the regulations do not specify that the owner must provide documentation to the PHA following the court-ordered eviction.
* Requiring the owner to provide documentation related to the eviction will help the PHA determine whether the family was evicted for “serious or repeated” violations of the lease, and will ensure that the PHA is aware of the eviction date as soon as possible.
* Due to the nature of the policy, the standard 10 business day time frame is not used. Instead, it has been shortened to 5 business days.

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

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

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

**12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

An owner who has grounds to terminate a tenancy is not required to do so. This section lists some of the criteria the owner may use to make this decision. It also specifies that the owner may require a family member who has committed certain offenses to leave the family as a condition of continuing the tenancy, and that the owner may consider whether a family member who has been involved in certain drug-related offenses has successfully completed a rehabilitation program.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, stalking, or human trafficking is limited by the Violence against Women Act (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

**No policy decisions are required.**

**12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10). **No policy decisions are required.**

**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the administrative plan.  
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 plan 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 plan policy will require changes to policies in other chapters of the plan.

No. Changes to other chapters are not necessary.

Yes. Changes to the following chapters are also required: