Table of Contents

Online Resources 1-i
Learning Outcomes 1-i

CHAPTER 1 Basic Program Information
Learning Outcomes 1-1
Section 1.1 Program Components 1-2
Key Relationships 1-2
Roles in Subsidized Housing. 1-3
How HUD Communicates 1-11
Rules and References for Public Housing. 1-12
Section 1.2 Key Program Documents 1-16
Section 1.3 HOTMA 1-20
Section 1.4 Fair Housing Enforcement. 1-21
Introduction 1-21
HUD's Non-Discrimination/Fair Housing Compliance Requirement 1-21
Notice of Non-Discrimination and Record Keeping for HUD 1-22
Other State and Local Fair Housing Laws. 1-26
Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 1-26
Section 1.5 Nondiscrimination and Reasonable Accommodation 1-28
Section 504 of the Rehabilitation Act of 1973. 1-28
The Fair Housing Amendments Act 1-29
Age Discrimination Act of 1975. 1-29
Title II of the Americans with Disabilities Act (ADA). 1-29
Definitions of the Term "Disability" 1-32
Limitations Specifically Excluded From Disability Protection 1-35
Section 1.6 Reasonable Accommodation Process 1-36
PHA Obligation to Notify. 1-36
Applicant or Tenant Must Request a Specific Accommodation 1-38
The Request for an Accommodation Begins a Process 1-38
What the PHA Cannot Ask. 1-39
What the PHA Can Ask 1-40
Treat Each Case Individually. 1-41
Consider the Applicant's or Tenant's Choice of Accommodation 1-41
Information Must be Accessible 1-41
Consideration of Reasonableness of Request 1-42
Requirement to Keep Information Confidential. 1-43
Verification 1-44
Section 1.7 Reasonable Accommodation Functions. 1-47
Program Areas. 1-47
Accessibility 1-49

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Section 1.8 Violence Against Women Reauthorization Act (VAWA) 1-51
Definitions 1-52
PHA Plans 1-54
Denial of Assistance 1-55
Termination. 1-56
Notification and Certification 1-59
Emergency Transfer Plan 1-67
Confidentiality 1-68
Other Information 1-68
Basic Program Information Quiz. 1-69

CHAPTER 2 Evaluating Eligibility
Learning Outcomes 2-1
HABC Waiting List Policy. 2-2
Section 2.1 Initial Application 2-3
Applicant Status 2-3
Section 2.2 Waiting List Management 2-7
Managing the Waiting List 2-7
Opening and Closing the Waiting List 2-11
Reporting Changes while on the waiting List 2-13
Purging the Waiting List 2-17
Removal From Waiting List 2-18
Organizing Waiting Lists 2-21
Special Targeting Within Lists 2-23
Section 2.3 Preferences 2-25
Admission Preferences 2-25
Local Preferences. 2-26
Special Housing Initiatives. 2-28
Homeless Families Referred by the Mayor's Office of Homeless Services (OHS) 2-29
Preference Prohibitions 2-30
Notice of Preference Denial. 2-31
Section 2.4 Family Type 2-32
Household 2-32
Family 2-32
Cohead 2-33
Elderly Family 2-33
Near-Elderly Family 2-34
Non-Elderly Person with a Disability Family 2-34
Disabled Family. 2-34
HUD Definition of Persons with Disabilities. 2-35
Displaced Family. 2-38
Single Persons 2-38
Live-in Aide. 2-39
Foster Children and Adults 2-41
Child Custody 2-42
Remaining Member 2-43
Section 2.5 Social Security Number Requirements 2-47
Required Disclosure 2-47
Required Documentation 2-48

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Section 2.6 Restriction on Assistance to Noncitizens 2-53
Effective Date and Purpose of Rule 2-53
Definitions 2-53
Rules for Admission 2-54
General Provisions 2-54
Notification Requirements 2-54
Eligibility for Assistance 2-55
Verification Requirements 2-57
Sample Forms for Noncitizens 2-61
Section 2.7 Income Limits 2-65
Income Limits at Admission 2-65
Income Limit Restrictions 2-66
Income Targeting 2-66
Section 2.8 Occupancy Standards 2-67
Definition 2-67
Types of Projects/Developments 2-67
Type of Unit Needed 2-69
Size of Unit Needed 2-71
HABC Occupancy Guidelines 2-72
Exceptions to Occupancy Guidelines 2-73
Processing Exceptions 2-76
Section 2.9 Evaluating Final Eligibility 2-77
Full Application Stage 2-77
Application Inquiries 2-78
Applicant Interviews 2-78
Legal Identity – Photo ID 2-81
Verification of Age 2-81
Legal Capacity of the Head of Household 2-82
Tenant Readiness Training 2-82
Suitability 2-83
HABC Requirements 2-84
Rent Paying Habits 2-87
Criminal Background Checks 2-87
Opportunity to Dispute Accuracy or Relevance of Criminal Records 2-88
Application of Fair Housing Act Standards to the Use of Criminal Records 2-89
Denial of Admission 2-90
Mitigating Factors 2-96
Documenting Findings Related To Screening 2-97
Admission of Applicants with Disabilities 2-104
Notice to Ineligible Applicants 2-105
Informal Hearings 2-106
Section 2.10 Applicant Selection Procedures 2-108
Order of Selection 2-108
Order Of Selection For The 22 Scattered Sites Thompson Units 2-112
EIV Reports 2-119
Public Housing Eligibility Quiz 2-122

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CHAPTER 3 Leasing

Learning Outcomes 3-1

Section 3.1 Leasing Procedures 3-1

Preoccupancy Duties 3-1
Lease Orientation 3-2
Unit Inspection 3-7
Income Changes at Lease Up 3-7

Section 3.2 Required Lease Provisions 3-8

Parties, Dwelling Unit, and Term 3-9
Payments Due Under the Lease 3-11
Redetermination of Rent and Family Composition 3-16
Tenant's Right to Use and Occupancy 3-17
HABC Guest Policy 3-17
PHA Obligations 3-18
Tenant Obligations 3-20
Tenant Maintenance 3-22
Defects Hazardous to Life, Health, or Safety 3-23
Preoccupancy and Pretermination Inspections 3-25
Entry of Dwelling Unit During Tenancy 3-26
Notice Procedures 3-28
Termination of Tenancy and Eviction 3-29
Eviction 3-29
Grievance Procedures 3-30

Section 3.3 Other Lease-Related Requirements 3-31

Tenants' Opportunity for Comment 3-31
Posting of Policies, Rules, and Regulations 3-31
Prohibited Lease Provisions 3-32
Accommodation of Persons with Disabilities 3-32
Learning Activity 3-1: Lease Provisions 3-33

CHAPTER 4 Reexaminations & Continued Occupancy

Learning Outcomes 4-1

Section 4.1 Annual Reexaminations 4-2

HABC Reexamination Frequency 4-2
HABC Reexamination Process 4-5
Learning Activity 4-1: Regular Reexams 4-9

Section 4.2 Interim Reexaminations 4-13

Changes in Family Composition 4-13
Interim Reporting 4-18
Optional Interim Reporting 4-20
Family Reporting 4-22
Effective date of changes 4-23
Delays in Processing Reexaminations Caused by HABC or the Privately Owned/managed Sites 4-24
Learning Activity 4-2: Interim Reexams 4-25

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Section 4.3 GROW Program 4-27
GROW Admissions Policy 4-27
GROW Continued Occupancy Policy 4-28
Exemptions From The GROW Continued Occupancy Policy 4-30
Verification Of Continued Occupancy GROW Policy Compliance 4-30
Interim Changes 4-31
Approved Education and Job Training Programs 4-32
Hardship 4-33
Compliance 4-34
Section 4.4 Community Service 4-37
Learning Activity 4-3: Community Service Quiz 4-45
Section 4.5 Transfer Policy 4-47
HABC Transfer Policies 4-47
Eligibility For Transfers 4-48
Types Of Transfer 4-50
Family Splits 4-59
HABC-Initiated Transfers 4-59
Resident-initiated Transfers 4-60
Transfer Waiting Lists 4-61
Moving Costs 4-63
Security Deposits 4-64
Processing Transfers 4-64
Unit Offers for Transfers 4-65
Transfers and Reexam Dates 4-67

CHAPTER 5 Service Animals, Support Animals, and Pets in Public Housing
Learning Outcomes 5-1
Section 5.1 Assistance Animals 5-1
Background 5-1
Two Types of Assistance Animals 5-2
Service Animals 5-3
Support Animals (Assistance Animals Other than Service Animals) 5-4
Criteria for Assessing Whether to Grant the Requested Accommodation 5-4
FHEO 2020-01 Guidance about Documentation from the Internet 5-5
Type of Support Animal 5-6
General Consideration of the Reasonableness of the Request 5-7
Section 5.2 Pet Rules for All Developments 5-8
Effect of State/Local Laws 5-8
What Animals Qualify? 5-9
Rules 5-10
HABC Pet Policy 5-12
Other Acceptable Rules 5-15
Lease Provisions 5-17
Nuisance or Threat 5-17
Pet Deposit 5-19
Public Housing Pets Quiz 5-21

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CHAPTER 6 Terminations

Learning Outcomes 6-1

Section 6.1 Requirements for Evictions and Terminations 6-2

Termination of the Lease 6-2
Termination by Tenant 6-2
Termination by PHA 6-3
How Tenant is Evicted 6-5
Definitions Related to Eviction 6-5
Notice of Intent to Terminate and Opportunity to Dispute 6-7
Mandatory Termination of Tenancy 6-9
Over-Income Families 6-11
Allowable Termination of Tenancy 6-16
PHA Access to and Use of Criminal Records and Information 6-23
Lease Termination Notice Requirements 6-25
Nondiscrimination Limitation 6-28
Notice to the Post Office 6-28

Section 6.2 Grievance Procedures and Requirements 6-29

Definitions 6-29
Purpose and Applicability of Grievance Procedures 6-31
Informal Settlement of Grievances 6-33
HABC Informal Settlement of Grievance Policies 6-34
Procedures Governing the Hearing 6-35
Other Procedural Requirements 6-40
Evidence 6-41
Decision of the Hearing Panel 6-41
Repayment Agreement Policy 6-45
HABC Policies 6-46
Documentation 6-51
Public Housing Lease and Terminations Quiz 6-52

CHAPTER 7 Eligibility & Occupancy Study Guide

CHAPTER 8 Answers to Eligibility & Occupancy Study Guide

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Online Resources

Additional resources and references for this course are available at http://NMAreferences.com. Click the specific program link at the top of the web page to jump directly to the references you wish to access. No login information is required.

Learning Outcomes

Explain and apply HUD regulations and guidance and HABC policy to determining eligibility, the intake process, and occupancy in the public housing program.

When you have completed the **Eligibility** portion of the MTW Public Housing Specialist for Housing Authority of the City of Baltimore seminar, you should be able to:

- Describe and explain the basics of the public housing program
- Recognize all of the factors of eligibility and how they affect families
- Discuss waiting list management as it applies to application taking and processing, preferences, and removal from the waiting list as well as requirements for site-based waiting lists
- Identify how unit offers are made

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When you have completed the **Occupancy** portion of the Public Housing Specialist seminar, you should be able to:

- Describe the various aspects of the leasing process and analyze the required provisions of the public housing lease
- List and define annual and interim activities including requirements for community service
- Identify requirements and restrictions for pets in public housing
- Describe and analyze the reasons for terminations and the hearing process

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CHAPTER 1 Basic Program Information

LEARNING OUTCOMES

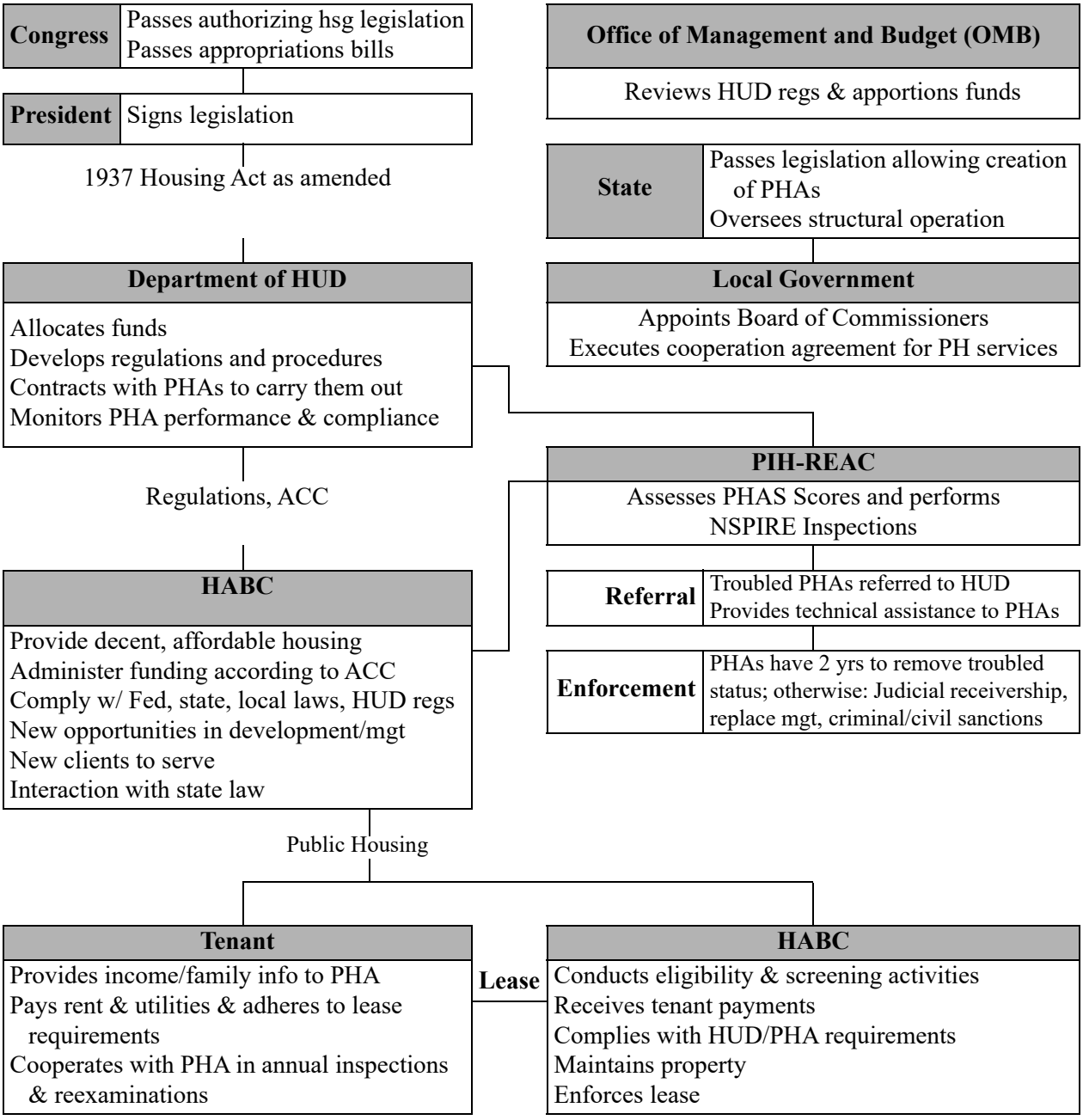
Upon completion of this chapter, you should be able to:

- Identify the key roles and relationships in the public housing program
- Read and interpret HUD notices, regulations, and other resources with a focus on critical information
- Explain PHA responsibilities throughout the program and HABC's local objectives
- Apply HUD requirements regarding fair housing and VAWA to public housing program operations

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Section 1.1 Program Components

KEY RELATIONSHIPS



ROLES IN SUBSIDIZED HOUSING

CONGRESS

- Primary role: Passes laws and creates statutes
  - Authorizing legislation
    - Creates programs
  - Appropriations bills
    - Fund programs
  - Federal statutes found in the United States Code (U.S.C.)
    - Serve as basis for federal regulations
    - Mandatory references

HUD HEADQUARTERS IN WASHINGTON, DC

- Primary role: Decision-making and information
- Writes and publishes regulations to implement laws (proposed, interim or final – published in 24 Code of Federal Regulations)
- Writes and prints:
  - Program handbooks and guidebooks
  - Notices and memoranda
  - Instruction manuals and booklets
  - Forms
- Responds to letters
- HUD's references
  - Mandatory – must be followed
  - Optional – offered as guidance

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Mandatory References

- Statutes (written by Congress)
- Code of Federal Regulations (CFR)
  - For public housing, located principally in 24 CFR Parts 5, 902, 903, 960, and 966
- Current notices
  - Have an expiration date
  - May be extended
- Handbooks
- Forms
  - Often have instructions in addition to form
- Opinions or rulings by HUD's Office of General Counsel (OGC)

Optional References

- Guidebooks
  - Public Housing Occupancy Guidebook
- Notices that have expired (unless cancelled by newer mandatory reference)
- Handbooks that have expired (unless cancelled by newer mandatory reference)
  - For public housing, HUD Handbook 7465.1
- Recommendations from individual HUD staff

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HUD Offices

- Primary role: payments and HUD compliance monitoring
- Public and Indian Housing (PIH) is responsible for public housing and Section 8 Housing Choice Voucher programs

Field Offices

- Primary role: PHA monitoring and guidance in program operation

Real Estate Assessment Center (PIH-REAC)

- Evaluates the overall condition of HUD's housing portfolio
- Assesses PHAs under the Public Housing Assessment System (PHAS)
- Performs NSPIRE inspections
- Determines what level of scrutiny a PHA receives

Administration Of Subsidized Housing

- HUD (Department of Housing and Urban Development) is charged by Congress as the department to administer subsidized housing activities
- HUD, by itself, cannot carry out all subsidized housing activities and must contract with entities who actually build, manage, and maintain the buildings and administer the rent subsidy programs
- There are two types of entities that contract with HUD to carry out the subsidized housing activities authorized by Congress
  - PHAs (public sector)
  - Owners (private sector)

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Role of the State

- PHAs (public housing agencies) are set up under state enabling legislation.
- PHAs may be set up as:
  - A public corporation with a separate board of commissioners appointed by local officials such as the mayor and/or city council (the traditional structure)
  - A department of a city, county, or state (under special legislation)
- Their jurisdiction could be city, county, multicounty, or statewide, depending on the enabling legislation.

Project-based vs. Tenant-based Subsidy

- Under project-based subsidy, families must live in the unit which has the subsidy attached to it in order to receive assistance
  - Public housing
- Under tenant-based subsidy, families can choose their unit and their assistance follows them from unit to unit
  - Section 8 housing choice vouchers

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PUBLIC HOUSING

- PHAs typically administer public housing which is owned and operated by the PHA
- Families generally pay a portion of their income toward rent (based on a HUD formula), but since their incomes are low, this does not generate enough money to operate and maintain the housing
- Because Congress sets the limitation on what the families can pay, the PHA cannot raise the rent to obtain more money, like an owner on the private market could do
- Therefore, HUD provides operating subsidy to PHAs in order to maintain the properties and administer the program

Role of the PHA

- Primary role: delivery of housing to low-income families
- PHA is both owner of the properties and manager of the HUD public housing program
  - Four broad functions
    - Manage waiting list, determine eligibility
    - Certify/recertify tenants
    - Manage/maintain buildings
    - Monitor program performance

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- Historical role
  - Provide decent, safe and sanitary housing to low-income families at affordable rent
  - Administer funding according to the ACC
  - Comply with federal, state and local laws and HUD regulations
  - Follow PHA policies as approved by the PHA board of commissioners
- PHA's role expanded under Quality Housing and Work Responsibility Act of 1998 (QHWRA), also known as the Public Housing Reform Act (PHRA)
  - New opportunities for development and management
  - New clients to serve

HABC MTW Policy

- Moving to Work (MTW) is a demonstration program for PHAs that provides them the opportunity to design and test innovative, locally designed strategies that use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families.
- MTW allows PHAs exemptions from many existing public housing and voucher rules and provides funding flexibility with how they use their Federal funds.
- Currently, there are 139 MTW PHAs nationwide.

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- On March 31, 2005, HUD and HABC entered into a MTW Agreement. Under the terms of the MTW Agreement, HABC will design and test innovative methods of providing housing and delivering services to low-income families in an efficient and cost-effective manner. The MTW Agreement supersedes most of the terms and conditions of the Annual Contributions Contracts (ACCs), the provisions of the United States Housing Act of 1937 and HUD requirements to the extent necessary for HABC to implement its MTW demonstration program. HABC's objectives, under its MTW Agreement, is to operate its public housing program with efficiency and to demonstrate to HUD or independent auditors that HABC is using its resources in a manner that reflects its commitment to quality and service.

HABC Local Objectives

HABC ACOP, Section 1.4

- HABC's ACOP is designed to achieve the following objectives:
- To provide improved living conditions for very low- and low-income families while maintaining their rent payments at an affordable level.
- To operate a socially and financially sound public housing agency that provides decent, safe, and sanitary housing within a suitable living environment for residents.
- To lawfully deny the admission of applicants, or the continued occupancy of residents, whose habits and practices reasonably may be expected to adversely affect the health, safety, peaceful enjoyment or welfare of other residents or the physical environment of the neighborhood or create a danger to HABC employees.

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- To provide opportunities for upward mobility for families who desire to achieve self- sufficiency.
- To facilitate the judicious management of HABC's inventory, and the efficient management of HABC staff.
- To comply with Title VIII of the Civil Rights Act of 1968 and all other applicable Federal laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, national origin, age, religion, sex, familial (family) or disability or disability status.

SUMMARY OF PHA RESPONSIBILITIES

CFR 902.20
- The PHA must maintain public housing properties to the standard of decent, safe, sanitary, and in good repair.

CFR 902.30
- The PHA has a responsibility to ensure adequate financial resources and to be capable of managing those financial resources effectively to support housing that is decent, safe, sanitary, and in good repair.

CFR 902.40
- The PHA has a responsibility to perform key management operations and responsibilities, such as:
  - Minimizing vacancies while avoiding overcrowding units;
  - Using capital funds effectively for long-range modernization needs and extraordinary nonroutine maintenance;
  - Establishing a work order system;
  - Inspecting all units and systems annually;
  - Tracking, screening, and enforcing the lease for criminal activity, including drug-related criminal activity; and

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- If applicable, coordinating, promoting or providing effective programs and activities to promote the economic self-sufficiency of residents.

CFR 966.4

- The PHA must establish a lease, entered into between the PHA and each tenant of a dwelling unit.

CFR 966.4(e)

- The lease must set forth the PHA's obligations, which shall include the provisions stated in 24 CFR 966.4(e).

How HUD Communicates

- HUD's homepage: www.hud.gov
- PIH homepage: www.hud.gov/program_offices/public_indian_housing
- HUD regulations: www.hud.gov/program_offices/administration/hudclips
- HUD Notices: www.hud.gov/program_offices/public_indian_housing/regs
- Form HUD-50058: https://www.hud.gov/sites/dfiles/PIH/documents/50058_Family_Report-2024_9-29-23.pdf
- REAC Homepage: www.hud.gov/program_offices/public_indian_housing/reac/
- Public Housing Occupancy Guidebook: https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mod/guidebook

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RULES AND REFERENCES FOR PUBLIC HOUSING

- 24 Code of Federal Regulations (CFR)
  - Part 1: Nondiscrimination in Federally Assisted Programs
  - Part 5: General HUD Program Requirements
  - Part 8: Nondiscrimination Based on Handicap
  - Part 35: Lead-Based Paint
  - Part 100: Fair Housing
  - Part 902: Public Housing Assessment System
  - Part 903: Public Housing Agency Plans
  - Part 907: Substantial Default by a Public Housing Agency
  - Part 908: Electronic Submission
  - Part 960: Admission to, and Occupancy of, Public Housing
  - Part 965: PHA-Owned or Leased Projects, General Provisions
  - Part 966: Public Housing Lease and Grievance Procedure
- PIH Notices
  - PIH Notices are numbered using the year of publication and a notice number
  - For example, notice PIH 2018-12 is the twelfth PIH notice issued in the year 2018
  - Typically have a shelf life
  - Many state, “This notice remains in effect until amended, superseded, or rescinded.”

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- HUD forms and instructions
  - Family Report Form HUD-50058 and Form HUD 50058 Instruction Booklet
- Public Housing Occupancy Guidebook
  - If instructions are supported by federal law, CFR, notices or forms, the instructions are mandatory.
  - If not supported by federal law, CFR, notices or forms, then instructions are discretionary. Following HUD guidance in these cases to establish policy would be considered “safe harbor”.
  - Expired guidance can sometimes be helpful, if not replaced by a mandated requirement.
  - There are two versions of the guidebook. The “old” version was published in 2003. The “new” version was published starting 2022 and is being released chapter-by-chapter. This course book relies on references from both versions of the guidebook.

HOW TO READ A HUD REGULATION

- Rules issued in the *Federal Register* are organized as follows:
  - List of regulations affected
  - Subject
  - Rule status (final, interim, proposed)
  - Effective (implementation) date
  - Contact person for comments
  - Preamble
  - Comments
  - Text of new or revised regulations
- See sample pages following.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 247, 880, 882, 884, 891, 960, 966, and 982

[Docket No. FR–4495–F–02]

RIN 2501–AC63

Screening and Eviction for Drug Abuse and Other Criminal Activity

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations for the public housing and Section 8 assisted housing programs, and for other HUD assisted housing programs, such as the Section 221(d)(3) below market interest rate (BMIR) program, Section 202 program for the elderly, and Section 811 program for persons with disabilities, and Section 236 interest reduction program. All of these programs were affected by 1998 amendments to the statute authorizing the public housing and Section 8 programs. These amendments give Public Housing Agencies (PHAs) and assisted housing owners the tools for adopting and implementing fair, effective, and comprehensive policies for screening out programs applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity.

DATES: *Effective Date:* June 25, 2001.

FOR FURTHER INFORMATION CONTACT: For tenant-based Section 8 and public housing—Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4224, Washington DC, 20410; telephone (202) 708–0744 or the Public and Indian Housing Resource Center at 1–800–955–2232. Ms. Arnaudo also may be reached via the Internet at Patricia_S._Arnaudo@hud.gov.

For the Section 8 project-based programs—Willie Spearmon, Director, Office of Housing Assistance and Grants Management, Office of Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–3000. Mr. Spearmon also may be reached via the Internet at Willie_Spearmon&hud.gov.

Only the Public and Indian Housing Resource Center number is toll-free. Persons with hearing or speech impairments may access the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD-assisted housing safer places to live on July 23, 1999 (64 FR 40262), which superseded earlier proposed

Crime prevention in federally assisted

engage in illegal drug use or other criminal activity, and both prevention and enforcement will be advanced by the authority to evict and terminate assistance for persons who participate in criminal activity.

The changes proposed in that rule derived from several sources. (See the chart published in the July 23, 1999, proposed rule at 64 FR 40264–40265 for more detail.) Section 9 of the Housing Opportunity Program Extension Act (Pub. L. 104–120, 110 Stat. 834–846, approved March 28, 1996)(''the Extension Act'') amended sections 6 and 16 of the United Stated Housing Act of 1937 (42 U.S.C. 1437a, *et seq.*) (''the 1937 Act''). Sections 428, 506, 545, and 575–579 of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved Oct. 21, 1998) amended sections 3, 6, 8, and 16 of the 1937 Act

V of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved October 21, 1998) was designated the Quality Housing and Work Responsibility Act of 1998 and is referenced in this rule as ''the QHWRA'' or ''the 1998 Act.'' Section 903 of the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104–

terminating tenancy for fleeing to avoid prosecution, custody or confinement after commission of a felony, or for violation of probation or parole.

Although owners and PHAs have been free to deny admission to applicants for assisted housing on the basis of criminal activity, these new statutory provisions mandate denial of admission for specified criminal activity. In implementing the new mandatory provisions, HUD does not impair existing authority of owners and PHAs to deny admission for criminal activity other than that specified in this rule or which has taken place at times other than those specified. In addition, other means of obtaining criminal records and may continue to use these other means of obtaining that information. The portion of this rule that addresses access to criminal records, subpart J of part 5, does not affect those other means. However, HUD cautions PHAs and owners to handle any information obtained about criminal records in accordance with applicable State and Federal privacy laws and with the provisions of the consent forms signed by applicants.

The preamble to the July 23, 1999, proposed rule provided additional information about the proposed implementation of the Extension Act and the 1998 Act.

II. Significant Differences Between This Final Rule and the Proposed Rule

This final rule takes into consideration the public comments received on the proposed rule and attempts to simplify the rule where possible. The more significant changes made to the July 23, 1999 proposed rule by this final rule are described below.

1. *Revised and reorganized regulatory text.* HUD has revised and reorganized the majority of the proposed regulatory text. These changes are not substantive, but are designed to streamline the contents of the proposed rule and make the new requirements easier to understand. For example, the final rule uses a more reader-friendly question and answer format. The more significant of these clarifying and organizational changes are described in greater detail in this section.

2. *Cross-reference to generally applicable definitions (§ 5.100).* The final rule eliminates unnecessary redundancy by relocating the definitions of commonly used terms to subpart A of 24 CFR part 5 (see § 5.100 of this final rule). The program regulations using the defined terms have been revised to simply cross-reference to 24 CFR part 5, rather than repeating the generally applicable definitions.

3. *Authority to screen applicants and evict tenants (24 CFR part 5, subpart I).* This final rule reorganizes and clarifies the provisions of the proposed rule concerning the authority of housing providers to screen and evict tenants. Some of the 1998 Act provisions require certain actions, while other provisions authorize various actions. In the proposed rule, this distinction was not always entirely clear. HUD has made several revisions to proposed 24 CFR part 5, subpart I to clarify these

Preamble Starts here and goes on
Regulations affected
Subject
Rule status
Implementation or Comments due date
Contact person for comments

5. Add a new § 200.37 to read as follows:

§ 200.37 Preventing crime in federally assisted housing.

See part 5, subparts I and J of this title, for provisions concerning preventing crime in federally assisted housing, including programs administered under section 236 and under sections 221(d)(3) and 221(d)(5) of the National Housing Act.

PART 247—EVICTIONS FROM SUBSIDIZED AND HUD-OWNED PROJECTS

6. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

7. In § 247.2, revise the last sentence in the definition of ''subsidized project'' to read as follows:

§ 247.2 Definitions.

* * * * *

Subsidized project. * * For purposes of this part, *subsidized project* also includes those units in a housing project that receive the benefit of:

(1) Rental subsidy in the form of rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(2) Housing assistance payments for project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f). However, this part is not applicable to Section 8 project-based assistance under parts 880, 881, 883 and 884 of this title (except as specifically provided in those parts).

8. In § 247.3, revise paragraph (a)(3) to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

(a) * * *

(3) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

9. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

10. In § 880.607, revise paragraph (b)(1)(iii) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(1) * * *

(iii) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

11. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

12. In § 882.102, amend paragraph (b) follows:

§ 882.102 Definitions.

(a) *Terms found elsewhere.* The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, other person under the tenant's control, public housing agency (PHA), Section 8, and violent criminal activity.*

* * * * *

13. In § 882.511, amend paragraph (a) by adding after the heading a paragraph designation (1), and by adding a new paragraph (a)(2).

§ 882.511 Lease and termination of tenancy.

(a) * * *

(2) The lease must provide that drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must provide that the owner may terminate the tenancy of a family when the owner determines that a household member is illegally using a drug or when the owner 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.

* * * * *

§ 882.514 [Amended]

14. In § 882.514, remove paragraph (a)(2) and redesignate paragraph (a)(3) as paragraph (a)(2), and remove paragraph (g).

15. Add § 882.518 to read as follows:

§ 882.518 Denial of admission and termination of assistance for criminals and alcohol abusers.

(a) *Requirement to deny admission.*— (1) *Prohibiting admission of drug criminals.* (i) The PHA must prohibit admission to the program of an applicant for three years from the date of termination of tenancy if any household member's federally assisted housing tenancy has been terminated for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(A) The household member who engaged in drug-related criminal activity and whose tenancy was terminated has successfully completed an approved supervised drug rehabilitation program, or

(B) The circumstances leading to the termination of tenancy no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) The PHA must establish standards that permanently prohibit admission to the program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) The PHA must establish standards that prohibit admission of a household to the program if the PHA determines that any household member is currently engaging in illegal use of a drug or that it has reasonable cause to believe that a household member's pattern of illegal use of a drug, as

offenders. The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In this screening of applicants, the PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and

program under standards established by the PHA if the PHA determines that any

Compare with previous regulation

That portion of the CFR section not listed remains unchanged

That portion of the section either above or below remains unchanged

Section 1.2 Key Program Documents

CFR 982.151

ANNUAL CONTRIBUTIONS CONTRACT (ACC)

- HUD executes an Annual Contributions Contract (ACC) with the PHA to provide an operating subsidy to assist in covering the operational expenses when the rent collection from families is inadequate.
- An Annual Contributions Contract (ACC) is a written contract between HUD and a PHA.
- Under the ACC, HUD agrees to make payments to the PHA.
- The PHA agrees to administer the program in accordance with HUD regulations and requirements.

HABC ACOP, Section 1.1

- HABC's MTW Agreement supersedes many parts of the ACC

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

HUD Handbook 7465.1, Rev-2, 1-1(a)
CFR 960.202

- The Admissions and Continued Occupancy Policy (ACOP) is the HABC's principal statement of the policies to be used in the administration of the public housing program.
- The PHA must adopt a written ACOP that establishes local PHA policies for the administration of the program in accordance with HUD requirements.
- The ACOP and revisions must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials, with discretionary ACOP policies included in the PHA Plan.

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- The written ACOP does not have to be approved by HUD, but must be available for audit.

Industry practice

- The purpose of the plan is to prevent misunderstandings between PHA staff and residents, to avoid lawsuits and provide consistency of administration.

HUD Handbook 7465.1, Rev-2, 1-1(a)
CFR 960.202

Contents of the Admissions and Continued Occupancy Policy

- PHAs must adopt admissions policies which meet the requirements of:
  - HUD regulations
  - Fair housing and civil rights laws
  - The Annual Contributions Contract (ACC)
  - State and local laws.

HABC ACOP, Section 1.7

- Policies that are adopted by HABC under the MTW Agreement are specifically noted in the ACOP as MTW policies. Where an ACOP policy relates to MTW and Non-MTW programs, the policy citation will not state MTW or Non-MTW. Finally, where regulatory citations are specifically identified in this ACOP, if a corresponding MTW policy is in effect, the MTW policy will supersede the existing and applicable HUD regulatory citation.

- Admission policies must be reasonable and must be consistent with the PHA's responsibilities as a public body.

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- Admission policies must include a tenant selection and assignment plan which covers:
  - The organization of the waiting list
  - The method by which applicants will be chosen from the waiting list and offered available dwelling units
  - The circumstances under which a transfer would take precedence over an admission.
- Admission policies must also include:
  - The PHA's standards for determining:
    - Eligibility
    - Suitability for tenancy
    - The size and type of unit and project needed
  - The PHA's procedures for verifying the information the applicant has provided
  - The PHA's method for achieving deconcentration of poverty and income-mixing in public housing developments
  - The PHA's selection preferences and their relative weights.
- The PHA must post copies of the admission policies in each office where applications are received.
- The PHA must provide the pertinent portion of its admission policies to each applicant who requests it.

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MTW Plans

- MTW Agencies have different reporting requirements that allow HUD to learn from their activities. Unlike other PHAs, MTW PHAs are required to submit a comprehensive framework for their MTW program in their Annual MTW Plans and Reports or MTW Supplements to the Annual PHA Plan, to HUD, which includes outcome measures for all proposed activities and reports on the progress of all MTW activities.
- The purpose of the Annual MTW Plans and Reports, and MTW Supplements to the Annual PHA Plan, is to provide local stakeholders and HUD with a clear understanding of the Agency's activities.
- In addition to reporting in MTW Plans and Reports, or MTW Supplements to the Annual PHA Plan, MTW agencies are also required to report into most of the same HUD reporting systems as other agencies.

Industry practice

THE LEASE

Notice PIH 97-56

- The lease is the contract between the PHA and the public housing resident family.

Section 1.3 HOTMA

- On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

- The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023.

- On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule (Note, HUD released a revised version of the notice on 2/2/24).

- On December 12, 2024, HUD published Notice PIH 2024-38 which identifies the provisions of HOTMA 102/104 that PHAs must comply with no later than July 1, 2025. All transactions with an effective date on or after 7/1/25 must be processed using requirements in Notice PIH 2024-38. The compliance deadline does not apply to other HOTMA 102/104 provisions not listed in the notice.

Provisions	Required Compliance Date
Stop enrolling families in the EID	1/1/24
Use of Form HUD-9886-A	No later than 2/1/25
Income exclusion	No later than 7/1/25
Definitions	No later than 7/1/25
De minimis errors	No later than 7/1/25

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Section 1.4 Fair Housing Enforcement

INTRODUCTION

- Public housing staff must be knowledgeable about nondiscrimination requirements, particularly Section 504 of the 1973 Rehabilitation Act, the Fair Housing Amendments Act of 1988, and the Americans with Disabilities Act, because these laws affect policies and procedures.
- Legal challenges cost both time and money. The PHA can mitigate challenges if the public housing staff understands the intent of fair housing laws and puts them into practice.

HUD'S NON-DISCRIMINATION/FAIR HOUSING COMPLIANCE REQUIREMENT

- Every PHA has an affirmative duty to comply with federal fair housing laws.
  - "Affirmative duty" means that PHAs must be vigilant and proactive
  - Every PHA must submit a signed certification to HUD of the PHA's intention to comply with:
    - Fair Housing Act
    - Title VI of the Civil Rights Act of 1964
    - Age Discrimination Act of 1975
    - Executive Order 11063
    - Section 504 of the Rehabilitation Act of 1973
    - Title II of the Americans with Disabilities Act
- The Admissions and Continued Occupancy Policy must include the intent to ensure full compliance with these laws.

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- The PHA must ensure that policies, procedures, and staff conduct are consistent with the PHA's fair housing oath.
- Residents must be briefed about fair housing.
- Residents who believe they have been illegally discriminated against have the right to be put in contact with the local fair housing agency.
- The PHA should never steer an applicant or tenant toward a particular development or area based on their race, national origin, or any other arbitrary classification.

NOTICE OF NON-DISCRIMINATION AND RECORD KEEPING FOR HUD

- PHAs may wish to maintain records on applicants and tenants for at least three years to provide HUD with racial, ethnic, gender and disability status.
- Every PHA office must have a posted policy on non-discrimination, which must state that the PHA will not discriminate on the basis of:
  - Race
  - Color
  - Sex
  - Religion
  - Disability (some HUD references still use the term "handicap")
  - National origin
  - Family status
  - Age

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Executive Order 13988

- "Sex" includes discrimination on the basis of sexual orientation and gender identity.

Public Housing Occupancy Guidebook

- "Familial status" gives protection to families with children.
- PHAs may not be aware that they may not use lead-based paint (LBP) considerations to deny housing to families with children.
  - PHA must educate family on LBP issues
  - Family chooses whether to occupy unit
- If family with children wishes to remain in unit with LBP hazards:
  - PHA may not seek to terminate tenancy due to the presence of minor children
  - PHA may offer to transfer family
- Equal treatment is required for all applicants.
  - In limited circumstances, PHA may be required to treat persons with disabilities differently
  - Reasonable accommodation

FR Notice 02/03/12, Notice PIH 2014-20

- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, effective March 5, 2012, also requires that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

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- As part of this rule, administrators and owners of HUD-assisted housing, and owners participating in multifamily programs may not inquire about the sexual orientation or gender identity of an applicant or occupant for the purposes of making eligibility determinations or otherwise making housing available.
  - A private owner that participates in the HCV program becomes subject to the rule at the point when the owner executes a housing assistance payments (HAP) contract with the PHA.
- The rule does not, however, prohibit any individual from voluntarily self-identifying sexual orientation or gender identity.
- It also does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled.
- HUD has stated that failure to comply will result in sanctions or corrective action plans as it deems appropriate to remedy any violations.

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Executive Order 13988

- Further, on January 20, 2021, the White House issued Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity and Sexual Orientation. The order states that federal laws prohibiting discrimination on the basis of sex, including the Fair Housing Act, also cover discrimination on the basis of sexual orientation and gender identity under the same category.
  - The order requires federal agencies, including HUD, to review any regulations, guidance documents, policies, programs, or other agency actions that were put into effect under any statute or regulation prohibiting sex discrimination and to develop a plan to ensure their consistency with the order.
- In addition to these protections at the federal level, PHAs must be aware of protections that may be provided by state or local ordinance.

OBLIGATION TO AFFIRMATIVELY FURTHER FAIR HOUSING

- PHA must determine whether programs reach all eligible population groups
- Take actions to increase participation by under-served populations
- Market to groups least likely to apply for housing

OTHER STATE AND LOCAL FAIR HOUSING LAWS

- In addition to the classes protected under federal law, PHAs must be aware of protections that may be provided by state or local ordinance.

State Government Article, §20-702, Annotated Code of Maryland

- It is the policy of the State of Maryland to provide for fair housing throughout the State, to all its citizens, regardless of race, color, religion, sex, familial status, national origin, marital status, sexual orientation, gender identity, disability, source of income, or military status

PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AFFECTING LIMITED ENGLISH PROFICIENT PERSONS

- National origin protections extend to Limited English Proficient (LEP) persons
- HUD published a Final Notice of Guidance in the Federal Register on January 22, 2007 outlining steps PHAs should follow to meet obligations under the law
- Implementation is required by Executive Order 13166
- All entities receiving federal financial assistance (includes PHAs) are covered and have a responsibility to ensure meaningful access to their programs and activities by LEP persons
- ***NOTE:*** Some PHAs operate in jurisdictions in which English has been declared the official language. Nonetheless, these PHAs continue to be subject to federal nondiscrimination requirements, including LEP
- Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be LEP, entitled to language assistance with respect to a particular type of service or benefit

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- PHA staff must be familiar with their PHA's policies and procedures for dealing with LEP individuals
- Information about how to request these services is available to HABC staff on the Baltimore Housing intranet site. The Baltimore Housing intranet website also provides a link to documents translated by HUD.

HABC ACOP, Section 2.7

Section 1.5 Nondiscrimination and Reasonable Accommodation

- This section is an overview of the major federal laws protecting people with disabilities.

SECTION 504 OF THE REHABILITATION ACT OF 1973

- Section 504 requires housing agencies to affirmatively ensure that persons with disabilities are given an equal opportunity to participate in the public housing program.
- A "qualified" person with a handicap:
  - Must be afforded an *opportunity equal* to that afforded to others, and/or
  - Must be provided housing or benefits *as effective* as those afforded to others, and/or
  - May *not be provided different or separate* housing or benefits unless necessary to provide the person with a handicap with housing or benefits that are as effective as those provided to others.
- These regulations make clear that it is not necessary to produce an *"identical" result.* Instead, the law affords people with handicaps an "equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement."
- In each case, *a participant with a disability must ask for an accommodation of their disability before the PHA treats them differently.*

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THE FAIR HOUSING AMENDMENTS ACT

- The Fair Housing Act[1] prohibits housing discrimination based on race, color, religion, sex, and national origin, regardless of whether federal funds are involved.
- The Fair Housing Amendments Act (FHAA) of 1988 extended this law to prohibit discrimination against people with disabilities and familial status (known as discrimination against families with children) in almost every kind of housing-related activity, including advertising, renting, selling, and lending.

AGE DISCRIMINATION ACT OF 1975

- Prohibits discrimination on the basis of age in federally-assisted programs and activities.
- Most often involved in protecting rights of older Americans.

TITLE II OF THE AMERICANS WITH DISABILITIES ACT (ADA)

- Signed into law in 1990, the ADA is the most comprehensive civil rights law for disabled people. Title II of the ADA and the regulations that implement it extended 504's non-discrimination policy to apply to all activities of state and local governments regardless of whether they receive federal funds.
- If your PHA employs more than 50 people, Title II requires the PHA to adopt grievance procedures for anyone denied a reasonable accommodation, *including applicants*. The grievance procedures can be the same as the regular informal hearing procedures, as long as they provide due process.

1. Title VIII of the Civil Rights Act of 1968

Federal Laws Prohibiting Housing Discrimination Against People With Disabilities

	Rehabilitation Act 29 USC 504 29 USC 794	Fair Housing Amendments Act 42 USC 3601	Title II of the Americans with Disabilities Act (ADA)
Prohibited or required practices	1. Cannot discriminate, exclude, or deny benefits solely because of disability. 2. Must provide reasonable modifications in all rules, policies, and procedures. 3. Program must be readily accessible and usable by individuals with disabilities.	1. Cannot discriminate. 2. Provide reasonable accommodation in rules, policies, and procedures. 3. Allow tenant to make reasonable physical accommodations.	1. Cannot discriminate, exclude, or deny benefits solely because of disability. 2. Must provide reasonable modifications in all rules, policies, and procedures. 3. Program must be readily accessible and usable by individuals with disabilities.
Housing covered	Any housing that receives federal funds, including public housing agencies and assisted-housing providers.	All housing except owner-occupied 4-, 3-, or 2-family housing	Housing provided by state and local governments and their entities, including public housing agencies.
Definition of a person with a disability	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.

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	Rehabilitation Act 29 USC 504 29 USC 794	Fair Housing Amendments Act 42 USC 3601	Title II of the Americans with Disabilities Act (ADA)
Are people with psychiatric disabilities covered?	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.
Is current illegal drug use covered?	No If the illegal use of controlled substances occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.	No	No
Is a history of illegal drug use covered?	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.
Are people who have alcoholism covered?	Yes	Yes	Yes
Are people with AIDS or who are HIV+ covered?	Yes	Yes	Yes

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DEFINITIONS OF THE TERM "DISABILITY"

- This section is an overview of the two definitions of "disability." The first is the HUD definition used for purposes of eligibility as a disabled family, and the HUD allowances and deductions. The second is the ADA definition used for purposes of reasonable accommodation.

HUD DEFINITION OF A DISABLED PERSON

CFR 5.611

- The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the dependent allowance, the allowance for medical expenses, and/or the allowance for disability assistance expenses.

DEFINITION OF A DISABLED PERSON FOR PURPOSES OF REASONABLE ACCOMMODATION

- The definition of a person with a disability for purposes of granting a reasonable accommodation request under either 504, FHAA or the ADA is much broader than the HUD definition of "disability." The Fair Housing Act defines "handicap" as:
  - "a physical, mental or emotional impairment that substantially limits one or more of a person's major life activities;
  - "has a record of such impairment; or
  - "is regarded as having such an impairment."
- This definition is identical to the 504 definition at 29 U.S.C. section 706(8)(B) and the definition of a disabled person under the ADA.

- The physical or mental impairment can include practically any condition, disease, illness, disfigurement or disorder, as long as the impairment substantially limits one or more major life activities. Examples include:
  - Alcoholism
  - Cerebral palsy
  - Cancer
  - Mental illness
  - Emotional disorder
  - Former drug addiction
  - HIV infection
- Major life activities include, but are not limited to:
  - Caring for oneself
  - Performing tasks
  - Walking
  - Seeing
  - Hearing
  - Breathing
  - Learning
  - Working

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- These federal civil rights laws were intended to cover a wide range of disabilities and do not require the severity of the HUD definition.
    - This broader definition is used for purposes of reasonable accommodation. This is because the laws were intended to ensure that a person with some limitation due to an impairment was not excluded from a program simply by virtue of that impairment so long as a reasonable shift in a program's rules or practices could allow them full access to the program.
- Qualifying as a person eligible to request an accommodation is the first step in the reasonable accommodation process. It is the establishment of the person's right to make a request of the program.
- However, the person must also show that they are limited by the program due to the nature of their disability.

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LIMITATIONS SPECIFICALLY EXCLUDED FROM DISABILITY PROTECTION

- The following three categories are specifically excluded from disability laws' protections:
  - Current drug users
  - People whose alcohol use interferes with the rights of others
  - A person with any disability that poses a direct threat or substantial risk of harm to others, that cannot be controlled with a reasonable accommodation under the public housing program
- In addition, juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by civil rights and fair housing laws.

NON-DISABLED PEOPLE WHO ARE CONSIDERED DISABLED

- This part of the definition of disability is used only to determine who is protected by civil rights laws.
- A person does not have to have a mental or physical impairment to be discriminated against under fair housing laws.
  - A person is "handicapped" if others regard or treat them as if they are
- If a staff member treats an applicant or tenant as though they had an impairment that substantially limits a major life activity, and because of that perception discriminates against that person, that person may file a discrimination claim under 504, whether or not they are actually disabled, and even though they are not qualified to receive an accommodation.

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Section 1.6 Reasonable Accommodation Process

- This section is an overview of the correct approach for a request for a reasonable accommodation.
- The best way to ensure consistent compliance with legal obligations to provide reasonable accommodation is to standardize the procedure for considering such requests. The process should be included in the Admissions and Continued Occupancy Policy, and should describe protocol and steps beginning with the original request for an accommodation and concluding with the resolution of the request.

PHA Obligation to Notify

- The PHA has an obligation to inform applicants and tenants of the right for any person with disabilities to request a reasonable accommodation. The PHA should review forms, letters, posters and signs for inclusion of this information.

HABC ACOP, Section 2.5

- Written information regarding HABC's Reasonable Accommodation Policy and Procedure, including information regarding how to make a request for a reasonable accommodation/modification is available at HABC's Admissions Office, Public Housing Site Management Offices, HABC's Central Office, HABC's Office of Fair Housing, HABC's Housing Choice Voucher Program Office, and on HABC's website.
- PHAs should consider adding the following to relevant application and occupancy documents:
  - "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact (name and phone number)."

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- PHAs should create or adopt standardized forms that clearly and simply ask for all the information and verifications the PHA will use in considering the request. It is best to ask the same questions of everyone.
  - However, PHAs must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the PHA's preferred forms or procedures.
- The PHA should have written procedures that spell out:
  - The position in the PHA responsible for overseeing compliance with reasonable accommodation requirements
  - The manner in which the PHA will respond to the request
  - The decision-making process (including a determination of undue burdens or fundamental alterations)
  - The time periods for decision and implementation of the accommodation
  - The right of appeal for unfavorable decisions regarding an accommodation or a particular choice of accommodation
  - The procedure for handling confidential verification forms that may disclose private medical facts.

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APPLICANT OR TENANT MUST *REQUEST* A SPECIFIC ACCOMMODATION

- An applicant's or tenant's request triggers the need for an accommodation.
- The PHA should never offer an accommodation until one has been specifically requested. Treating people differently because of a perceived disability is discrimination.

THE REQUEST FOR AN ACCOMMODATION BEGINS A *PROCESS*

- It's important to be aware that sometimes the need for an accommodation first presents itself in the form of a complaint (from or about the applicant or tenant), or through issues of noncompliance.
  - For example, if an applicant is denied admission, or if a tenant is facing lease termination, the need for some type of accommodation may be brought up. This is the signal for the PHA to begin the reasonable accommodation *process.*
- The reasonable accommodation process should be documented beginning with the initial request for an accommodation.
- The PHA's legal protection from a discrimination complaint or lawsuit lies in having *written* proof that consideration was given to the request.

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WHAT THE PHA CANNOT ASK

- The general rule is that the PHA **cannot** ask:
  - If a person has a disability (unless it is relevant to whether the applicant qualifies for the program or type of designated development);
  - The nature or extent of the disability;
  - Any question that would require the disabled person to waive or disclose a medical condition or history;
  - Whether any family member has a disability.
- It is always the right of a person with disabilities to not say anything about their disabilities.
  - However, the PHA does not have to provide any accommodation or special preference for that person.
- A public housing program cannot require that the tenant be able to live independently.
  - The PHA can only require that the family meet all its defined family obligations.

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WHAT THE PHA CAN ASK

- A PHA can ask only for information that is relevant.
  - If a person is applying for housing designated for individuals with disabilities or a certain type of disability, the PHA may ask if the applicant has a qualifying disability and for verification of that disability.
  - If the person is applying for the public housing program and is single, the PHA may ask if they qualify for a priority over other single applicants.
  - If the person is trying to qualify for allowances that reduce their rent on the basis of a disability (such as the $400 allowance for elderly and disabled families, the allowance for unreimbursed medical expenses, or the disability assistance allowance), the PHA may ask the person to verify a disability (and disability-related expenses when relevant).
  - If the person requests an accommodation due to their particular disability, you may ask the person to verify they have a disability and the need for the requested accommodation.
  - If, during the denial of admission process, the person asserts the poor history was caused by their disability and that a reasonable accommodation would prevent future violations, or that mitigating circumstances should be taken into account, the family may be asked to verify that:
    - They have a disability
    - The poor history or violation was a result of their disability
    - There are mitigating circumstances related to the disability, and the problems causing the poor history have been reasonably resolved, or that the requested accommodation is reasonable and likely to cure the violation.

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TREAT EACH CASE INDIVIDUALLY

- The essential intent of federal anti-discrimination laws is that each case should be treated on its individual merits.
- The PHA's legal protection from a discrimination complaint or lawsuit lies in having written proof that *good-faith, individual consideration was given to that particular person.*

CONSIDER THE APPLICANT'S OR TENANT'S CHOICE OF ACCOMMODATION

- Special consideration should be given to applicant's or tenant's choice of accommodation.
  - Accommodations are not reasonable if they impose undue administrative and financial burdens on the public housing program.
- The request for an accommodation begins a process. The process may include fluid negotiations on a case-by-case basis. What is reasonable in one situation may not be reasonable in another. The PHA may not be able to exactly meet the specific request, but may offer alternative options.

INFORMATION MUST BE ACCESSIBLE

- Information must be provided in an accessible format, when requested. People must be informed of their right to ask for a reasonable accommodation.

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CONSIDERATION OF REASONABLENESS OF REQUEST

- A PHA can deny a request for reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.
  - In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable, i.e., if it would impose an undue financial and administrative burden on the PHA or it would fundamentally alter the nature of the PHA's operations.

Notice PIH 2010-26

- The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as:
  - The overall size of the PHA's program with respect to the number of employees, type of facilities, and size of budget
  - The type of operation, including the composition and structure of workforce
  - The nature and cost of the requested accommodation
  - The availability of alternative accommodations that would effectively meet the requester's disability-related needs.
- When a PHA refuses a requested accommodation because it is not reasonable, the PHA should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the PHA's operations and without imposing an undue financial and administrative burden.
  - If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the PHA must grant it.

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REQUIREMENT TO KEEP INFORMATION CONFIDENTIAL

- Under federal privacy laws, a PHA is required to keep confidential any personal information about an applicant or tenant obtained in a confidential manner or from a confidential source.

- An applicant or tenant may sign a consent form to allow the PHA to disclose information in their file, but staff should not talk to anyone about a particular applicant's or tenant's medical status without authorization from the applicant or tenant, preferably in writing.

  - For example, the individual may have a social worker or family member who will help with the annual reexamination and inspection.

Notice PIH 2010-26

- If a PHA receives a verification document that provides a person's diagnosis or details of treatment for a disability or medical condition, the PHA should dispose of it. The PHA should note in the file that a disability (in place of the specific disability information) and any other information requested has been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

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VERIFICATION

- If a person voluntarily discloses a disability and requests an accommodation, a PHA can require third-party verification that accommodation being requested would remove a barrier that is due to the disability.
- The PHA should define what the PHA considers a valid third-party for verification of a disability.
  - Limiting verification to only physicians is not allowed. Depending on the information sought, a social worker, nurse, or other licensed professional might be competent to verify.
  - A suggested definition could be “a professional competent to render the opinion and knowledgeable about the person’s situation.”
- If a person’s disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily known or apparent, then the PHA may not request any additional information about the requesters disability or the disability-related need for the accommodation.
- A PHA may require documentation of the manifestation of the disability that causes a need for a specific accommodation.
- It is inappropriate and unnecessary for a PHA to receive actual medical records.
  - A verification form should ask for only as much information about an applicant’s or tenant’s disability as is necessary to consider the qualification for a particular reason stated by the PHA.
- A PHA may ask the applicant or tenant for authorization to contact the third-party professional to ask clarifying questions that do not go beyond the specific and necessary information required to make a decision.

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POP QUIZ

Becky (age 36) states she is disabled and has submitted this document. Do we need to verify her disability?

Social Security Administration

Retirement, Survivors, and Disability Insurance

Notice of Award

Office of Central

Operations

1500 Main Street

Baltimore, Maryland 19191

Date: October 10, 2013

Claim Number: 111-11-1111 HA

Becky Walker

13619 North Blvd

Anytown, USA

You are entitled to a monthly disability benefit beginning April 2012.

What We Will Pay and When

You will receive $941.00 for September 2013 around October 22, 2013.

You will receive $941.00 for September 2013. After that you will receive $943.00 on or about the fourth Wednesday of each month.

This and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.

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MEANING OF THE LETTERS AFTER A SOCIAL SECURITY OR MEDICARE NUMBER

CODE	IDENTIFICATION	CODE	IDENTIFICATION
A	Primary claimant (wage earner	E5	Surviving divorced father
B	Aged wife, age 62 or over	F1	Parent (father)
B1	Aged husband, age 62 or over	F2	Parent (mother)
B2	Young wife, with a child in her care	F3	Stepfather
B3	Aged wife, age 62 or over, second claimant	F4	Stepmother
B5	Young wife, with a child in her care, second claimant	F5	Adopting father
B6	Divorced wife, age 62 or over	F6	Adopting mother
BY	Young husband, with a child in his care	HA	Disabled claimant (wage earner)
C1-C9	Child - Includes minor, student or disabled child	HB	Aged wife of disabled claimant, age 62 or over
D	Aged widow, age 60 or over	M	Uninsured – Premium health insurance benefits (Part A)
D1	Aged widower, age 60 or over	M1	Uninsured – Qualified for but refused health insurance benefits (Part A)
D2	Aged widow (second claimant)	T	Uninsured – Entitled to HIB (Part A) under deemed or renal provisions, or fully insured who have elected entitlement only to HIB
D3	Aged widower (second claimant)	TA	Medicare Qualified Government Employment (MQGE)
D6	Surviving divorced wife, age 60 or over	TB	MQGE aged spouse
E	Surviving mother	W	Disabled widow
E1	Surviving divorced mother	W1	Disabled widower
E4	Widowed father	W6	Disabled surviving divorced wife

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Section 1.7 Reasonable Accommodation Functions

PROGRAM AREAS

- This section provides practical strategies for implementing the requirements in each function area of the public housing program.
- Per Notice 2002-01(HA), PHAs are required to make reasonable adjustments to their rules, policies, practices and procedures in order to enable an applicant or resident with a disability to have an equal opportunity as that afforded others to fully participate in the program and services of the PHA.
- The PHA should first modify the general program through a self-evaluation and transitional plan.
  - Per Notice PIH 2002-01(HA), all PHAs are encouraged to conduct needs assessments and self-evaluations at least yearly, working with people/residents with disabilities and local advocacy groups.
- Reasonable accommodation pertains to making reasonable adjustments in all functional areas of the public housing program:
  - Applications
  - Admissions
  - Determinations of eligibility
  - Inspections and repairs
  - Leasing
  - Modifications
  - Annual activities
  - Transfers
  - Termination of tenancy
  - Services

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- Some examples in these functions may include:
  - Visiting an applicant in their home for an eligibility interview;
  - Conducting a home visit for an annual reexamination;
  - Not prohibiting an eligible disabled family from accepting a non-accessible unit for which the family is eligible which may become available before an accessible unit;
    - The PHA is required to modify such a non-accessible unit as needed, unless the modification would result in an undue financial and administrative burden.
  - Providing an extra bedroom for a live-in aide;
  - Providing an extra bedroom for special medical equipment;
  - Allowing mitigating factors to be presented in a lease termination grievance;
  - Physically altering a unit;
  - Providing accessible transportation so a tenant may participate in a PHA -sponsored self-sufficiency activity.
- Essential program requirements need not be waived. A reasonable accommodation allows a person with a disability to meet essential requirements of the lease, but it does not require reducing or waiving essential requirements to rules, policies, functions, or physical space.
  - For example, waiving the requirement to pay rent would be waiving an essential program requirement. Knocking out a wall in the public housing unit that would impair the unit's structural integrity is not reasonable.

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- Reasonable accommodations are sometimes costly. Congress anticipated this additional financial commitment and made clear that they intended the federal programs to lay out resources where necessary to ensure equal access to persons with disabilities.
- In determining whether a particular accommodation is an undue financial burden, the public housing budget as a whole is considered.

ACCESSIBILITY

- Notice PIH 2002-01(HA), issued on January 22, 2002, reiterates that PHAs are required to make and pay for structural modifications to dwelling units and common areas when needed as a reasonable accommodation for tenants or applicants with disabilities.
  - For example, a PHA may be required to:
    - install a ramp to allow a tenant in a wheelchair access to a dwelling unit; or
    - transfer a family to an available accessible unit or one that can be modified without causing an undue financial and administrative burden.
- Public housing offices and any other facilities used by the office in interaction with the public must be accessible to people with a full range of disabilities.
  - These facilities must be accessible, made so, or be relocated, subject only to the undue administrative and financial burden test.
- PIH 2002-01(HA) specifies accessibility standards for PHAs.

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- Required accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that people with disabilities have choices of living arrangements comparable to that of other families.

- Per Notice 2002-01(HA), PHAs are required to make reasonable adjustments to their rules, policies, practices and procedures in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy the unit, the common areas of a dwelling or participate in or access other activities conducted or sponsored by the PHA.

- All PHAs are *required* to send Notice PIH 2002-01(HA) to *all* owners (HCV) and to all contractors (public housing).

  - PHAs must send this entire Notice, now and in the future.

  - It's important for PHAs to put this requirement in their Procurement and Contract Management policy.

- If a PHA is out of compliance with 504 (accessibility), HUD can refuse to fund *any* other funding application, or can withhold other payments, even if it's not related to accessibility at all.

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Section 1.8 Violence Against Women Reauthorization Act (VAWA)

- VAWA cites congressional findings that assert that women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.
  - These findings also note there is a strong link between domestic violence and homelessness.

CFR 960.200(b)(8)

- The general purpose of the law is to reduce domestic violence, dating violence, sexual assault, stalking, and human trafficking, and to prevent homelessness.
  - Although the VAWA 2022 statute does not specifically do so, HUD has recently begun 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, we have opted to include human trafficking in this text in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.
- The law protects victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who reside in public, assisted, and other types of housing and ensures that such victims have meaningful access to the criminal justice system without jeopardizing such housing.

CFR 5.2005 & 5.2007

  - To do so, VAWA amends the 1937 Housing Act. Title VI of VAWA affects the public housing and Housing Choice Voucher (HCV) programs by placing safeguards in the admissions and termination process, including provisions and procedures for certification, confidentiality and notification.
  - HUD encourages PHAs to read the law, inform residents about the requirements of VAWA, and update their PHA Plans accordingly.

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DEFINITIONS

CFR 5.2003

- *Bifurcate* – With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

- *Domestic violence* – Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

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- *Dating violence* – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- *Sexual assault* – Any nonconsensual sexual act proscribed by Federal, tribal, or state law, including when the victim lacks the capacity to consent.

CFR 5.2003

- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's individual safety or the safety of others; or
  - Suffer substantial emotional distress.
- *Affiliated individual*
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the place of a parent or guardian; or
  - Any individual, tenant, or lawful occupant living in the household of that individual.

PHA PLANS

- VAWA requires revisions to the PHA Plan.

CFR 903.6

- The 5-year plan is now required to include a statement of the goals, objectives, policies or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault stalking, or human trafficking.

CFR 903.7

- The annual plan must describe:
  - A statement of any activities, services, or programs that the PHA offers specifically to help victims of domestic violence, dating violence, sexual assault stalking, or human trafficking to obtain or maintain housing.
  - Any other activities, services, or programs that the PHA offers, either directly or in cooperation with other service providers, to such victims.
  - Any activities, services, or programs that the PHA offers to enhance victim safety in assisted families, and to prevent domestic violence, dating violence, sexual assault stalking, and human trafficking.
- The law does not require PHAs to offer any activities, services, or programs. But it requires that if such activities, services, or programs are offered, they must be described in the annual plan.
  - Specific information required by VAWA has been integrated into the PHA Plan templates

- VAWA also calls for states and local communities to modify their consolidated plans to incorporate strategies for addressing the housing needs of such victims. Since HUD requires PHAs to ensure that their annual plans are consistent with the consolidated plan for their jurisdictions, PHAs should check to see if their jurisdiction's consolidated plan has addressed this subject before modifying the annual plan.

DENIAL OF ASSISTANCE

CFR 5.2005

- VAWA prohibits PHAs from denying assistance to otherwise qualified applicants on the basis of or as a direct result of the fact that they are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

CFR 5.2011

  - The law further stipulates that any provision of any federal, state, or local law that provides greater protection to such victims takes precedence over VAWA.

- The congressional findings sited by VAWA state that because abusers frequently manipulate finances in an effort to control their partners, victims often lack steady income, credit history, landlord references, and a current address, all of which are necessary to obtain long-term permanent housing.

  - The findings also state that victims of domestic violence often return to abusive partners because they cannot find long-term housing.

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- Unless the PHA informs all applicants of the special protections afforded by VAWA, the PHA may inadvertently deny assistance to an individual who appears to be unsuitable due to bad credit, poor landlord references, or a history of evictions or crime, but is in fact a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
  - HUD's Public Housing Occupancy Guidebook encourages PHAs to ascertain whether domestic violence is a factor in an applicant's unfavorable rental and tenancy history, as well as past criminal activity.
  - Notice PIH 2017-08 states that the PHA is prohibited from denying assistance or admission, terminating participation, or evicting a tenant based on adverse factors, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.
  - Adverse factors refers to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant.

TERMINATION

CFR 5.2005

- VAWA discusses the public housing program requirements for the protection of victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking from lease termination.
- An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

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- Further, criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy or occupancy rights, if the tenant or affiliated individual of the tenant is a victim or threatened victim of that domestic violence, dating violence, sexual assault, stalking, or human trafficking.

CFR 5.2009(a)

- A PHA may *bifurcate* a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant, and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking:
  - Regardless of whether the household member is a signatory of the lease
  - Without evicting or otherwise penalizing the victim of such criminal activity who is also a tenant or lawful occupant

- Lease bifurcations must be carried out in accordance with requirements and procedures prescribed by federal, state, and local law for termination of assistance or leases, and in accordance with program requirements.

CFR 966.4(e)(9)

  - The public housing lease must include bifurcation language as well as VAWA definitions under Part 5, VAWA protections, information on documentation, and remedies available to victims.
  - PHA policy should state how and under what circumstances bifurcation of the lease will be considered.

- Eviction or removal of the perpetrator may not be necessary in all instances. If the family requests that the PHA give the perpetrator the chance to seek counseling or other treatment the PHA could give the same consideration they would in any other case not involving domestic violence.

Notice PIH 2017-08

- In lease bifurcations for mixed families where the eligible individual is the perpetrator, the PHA must provide any remaining tenant or tenants that were not already eligible a period of 30 calendar days from the date of bifurcation of the lease to establish eligibility in the same or another housing program or find alternative housing. The 90-day time period established in the VAWA Final Rule does not apply to HCV or public housing.

CFR 5.2009(c)

- PHAs are encouraged to undertake any permissible and feasible actions under the program to assist individuals that are victims to remain in their units or other units under the same or other program, and to bear the costs of any transfer, if permissible.

CFR 5.2009(b)

- The law does not limit the authority of the PHA, when notified of a court order to comply with respect to the rights of access or control of property to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or the distribution or possession of property among members of a household.

- In the process of terminating the lease for other reasons, PHAs cannot subject a person who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to a more stringent or demanding standard than other persons.

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FR Notice 1/4/23

- PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA.

CFR 5.2005(d)(3)

- The law does not limit the PHA's authority to terminate tenancy when there is an actual and imminent threat to other tenants, employees or others providing services to the property.
  - Notice PIH 2017-08 provides several considerations for reducing "actual and imminent" threats.

CFR 5.2005(d)(4)

- Any eviction or termination of assistance should only occur when there are no other actions that could be taken to reduce or eliminate the actual and imminent threat, such as transferring the victim to another unit, barring the perpetrator from the property, etc.

CFR 5.2011

- As with denial of admission, this law does not supersede any other federal, state, or local law that provides greater protection to such victims.

NOTIFICATION AND CERTIFICATION

CFR 5.2005(a)

- PHAs and owners are required to provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at the time the individual is provided assistance or admission, along with any notice of denial or eviction.
  - The Notice of Occupancy Rights is the official HUD informing notice.
  - The notice must be made available in multiple languages per limited English proficiency (LEP) requirements.

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- PHAs are not required to demand official documentation or physical proof of domestic violence, dating violence, sexual assault, stalking, or human trafficking before granting an alleged victim any of the special protections afforded by VAWA.
- The PHA may accept the individual's statement alone.

Notice PIH 2017-08

  - HUD recommends documenting in a confidential manner when a verbal statement or other evidence is accepted.

Notice PIH 2017-08

- If the PHA chooses to request an individual document their status as a victim, the PHA must make such a request in writing. Simply providing the victim with the form HUD-5382 does not constitute a written request for documentation.
- If the PHA requests documentation, the applicant or participant may submit one of the following:
  - A signed HUD-5382
  - A document signed by a "professional" and the applicant or participant that specifies that the professional believes that the occurrence is grounds for VAWA protections
    - A "professional" can be an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional.
  - Federal, state, tribal, territorial, or police or court records
  - A statement or other evidence provided by the individual, at the PHA's discretion

- Form HUD-5382 may also be filled out and submitted on behalf of a victim.
  - Notice PIH 2017-08 encourages PHAs and owners to advise applicants, tenants, and participants that forms submitted on their behalf will take the place of the victim's own statement.
- Individuals requesting protection cannot be required to provide additional third-party documentation, although the PHA may require third-party documentation if more than one applicant or tenant provides documentation (e.g., two household members each claiming to be the victim and the other the perpetrator) or the submitted documentation contains information that conflicts with existing information already available to the PHA.
  - In such cases, the applicant has 30 calendar days from the date of the PHA's request to submit third-party documentation.
- Notice PIH 2017-08 provides several clarifications and considerations with respect to requesting third-party documentation in cases where information conflicts.

Notice PIH 2017-08

- In addition, PHAs and owners may not conduct further "fact finding" to verify the validity of victim status, although if the PHA or owner already has or receives reliable conflicting information, they may require additional third-party documentation, as noted above.

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FORM HUD-5382

- Form HUD-5382 is the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation.
- The current version makes clear that:
  - Victims of sexual assault are protected by VAWA as well as victims of domestic violence, dating violence, and stalking.
  - The form applies not only to family members but also to affiliated individuals of tenant, participant, and applicant families.
    - An *affiliated individual* was defined in the *Federal Register* notice to mean, "with respect to an individual-(A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in the place of a parent or guardian; or (B) any individual, tenant, or lawful occupant living in the household of that individual."
    - Notice PIH 2017-08 clarifies that guests, unassisted members, and live-in aides are ineligible for VAWA protections, however, as a reasonable accommodation, a tenant or participant can request VAWA protections if a live-in aide is a victim or other reasonable accommodations on a case-by-case basis.
- The newest version of the form, transmitted as form HUD-5382, includes a space for "your name (if different from the victim's)."
- The form also specifies the requirements surrounding acceptable forms of documentation and states that documentation must also be signed by the victim.

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- It also specifically states that "the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential."
- HUD's form requires the family to provide the name of the perpetrator, in accordance with requirements specified in the law.
- The PHA should be mindful that the delivery of the certification form via mail may place the victim at risk (the abuser may monitor the mail).
  - The PHA may require that the tenant come to the office to pick up the certification form.
  - HUD encourages PHAs to work with tenants to make delivery arrangements that do not place the tenant at risk.
- If the individual does not provide the HUD certification form, or the information that may be provided in lieu of the form, within 14 business days after the request is received by the victim, the PHA may deny the request for relief.
- The PHA may extend the 14-day deadline at its discretion.
- The VAWA certification requirements do not supersede any provision of any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact [; FOR HOPWA PROVIDERS – or go to . You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your

covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Name(s) of victim(s):** _____

2. **Your name** (*if different from victim's*): _____

3. **Name(s) of other member(s) of the household:** _____

   _____

4. **Name of the perpetrator** *(if known and can be safely disclosed):* _____

5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

   If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

   ☐ Phone Phone Number: _____

   Safe to receive a voicemail: ☐ Yes ☐ No

   ☐ E-mail E-mail Address: _____

   Safe to receive an email: ☐ Yes ☐ No

   ☐ Mail Mailing Address: _____

   Safe to receive mail from your housing provider: ☐ Yes ☐ No

   ☐ Other Please List: _____

6. **Anything else your housing provider should know to safely communicate with you?**

   _____
   _____
   _____
   _____
   _____

Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others **or**

(2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

_____ _____

Signature **Date**

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EMERGENCY TRANSFER PLAN

- VAWA regulations require PHAs to establish an emergency transfer plan (ETP) as part of their administrative plan or ACOP.
  - The ETP must provide for immediate transfer to a safe unit if one is available, and the client would not have to apply for a different program.
  - The ETP must describe policies for emergency transfers of HCV participants, and the priority of VAWA transfers in relation to other transfers.
  - The ETP must also include policies for transfers when a safe unit is not immediately available, including whether the client would or would not have to apply for a different program.
  - Notice PIH 2017-08 also provides a detailed description of requirements for ETPs and other considerations when establishing ETPs, including examples.
- The ETP must be made available upon request or made publicly available.
- The ETP must state that victims of sexual assault qualify for emergency transfers if:
  - They reasonably believe there is a threat of imminent harm; or
  - The sexual assault occurred on the premises within the 90 days before the transfer request.

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CONFIDENTIALITY

- All information provided to a PHA:
  - Must be retained in confidence
  - Must not be entered into a shared database or provided to any related entity, unless:
    - The individual consents or requests in writing
    - It is required for use in eviction proceedings, or
    - It is otherwise required by applicable law
- For safety and legal reasons surrounding liability to the PHA and harm to a victim, a PHA may want to consider having all VAWA situations handled by a single staff member to limit access and knowledge with regards to the certification process and details regarding the abusive situation.
  - Notice PIH 2017-08 offers guidance and best practices for proper communication with victims, specifically for avoiding inadvertent disclosure of information and ensuring the safety of the victim.

OTHER INFORMATION

WAITING LIST PREFERENCES

- With the signing of QHWRA (Quality Housing and Work Responsibility Act) into law in 1998, the regulations pertaining to waiting list preferences at 24 CFR 960.206(b)(4) now include: "Preference for victims of domestic violence. The PHA should consider whether to adopt a local preference for admission of families that include victims of domestic violence."
  - Since Congress had written this into QHWRA, it is a statutory reference
  - VAWA does not require such a preference although Notice PIH 2017-08 provides guidance for establishing such preferences should the PHA wish to do so.

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BASIC PROGRAM INFORMATION QUIZ

I. Match the following terms with their definitions:

1. Annual Contributions Contract (ACC) _____
2. Admissions and Continued Occupancy Policy (ACOP) _____
3. The lease _____

a. The contract between the PHA and the public housing resident family

c. The written contract between HUD and the PHA under which HUD agrees to provide funding for the program, and the PHA agrees to comply with HUD requirements

d. A HUD-required written plan that establishes local PHA policies for administering the public housing program

II. Roles in Subsidized Housing

1. Congress _____
2. Department of Housing and Urban Development (HUD) _____
3. Office of Public and Indian Housing (PIH) _____
4. State government _____

a. Sets up PHAs under enabling legislation

b. Department of HUD that administers and manages the public housing and HCV programs

c. Allocates funds, develops regulations, contracts with PHAs, monitors PHA performance

d. Passes authorizing legislation and appropriations bills

III.Fair Housing

1. HUD definition of disability _____
2. ADA/504/FHA definition of disability _____

a. Broader definition of disability for purposes of granting a reasonable accommodation request

b. Narrower definition of a person with disabilities, used for purposes of receiving preferences and deductions

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Notes

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CHAPTER 2 Evaluating Eligibility

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Recognize all of the factors of eligibility and how they affect families
- Discuss waiting list management as it applies to application taking and processing, preferences, and removal from the waiting list
- Identify the different family types defined by HUD
- Explain the requirements for disclosure and documentation of social security numbers and the requirements for verification
- Categorize the different types of citizenship status and family types of applicants as well as the resulting types of families and identify how citizenship status affects eligibility and rent
- Use income limit data and describe how those limits play a role in the eligibility process
- Discuss the final eligibility determination stage with an emphasis on the screening and eviction rule

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HABC Waiting List Policy

HABC ACOP, Section 4.1

- With the exception of the units that meet the Uniform Federal Accessibility Standards ("UFAS"), HABC does not determine eligibility of applicants for Albemarle Square, Broadway Overlook, and Homes for Arundel because each of these sites maintains a site-based waiting list. HABC does refer residents and applicants to Albemarle Square, Broadway Overlook, and Homes for Arundel to occupy their UFAS Accessible Units.

- Pursuant to the Thompson Consent Decree, HABC created 22 public housing units (Thompson 22 Units) in neighborhoods within Baltimore City. HABC's Admissions and Leasing Office is responsible for screening the families for the Thompson 22 Units in accordance with the criteria outlined in this chapter. The Baltimore Regional Housing Partnership (BRHP) is under contract with HABC to counsel and prepare the families prior to them moving into the units.

- The RAD properties and the properties with LTA units conduct additional screening for eligibility pursuant to the LTA Criteria. In addition, other privately owned and managed sites conduct additional screening pursuant to their tenant selection and assignment plans.

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Section 2.1 Initial Application

APPLICANT STATUS

- An applicant does not have any "right" or entitlement:
  - To be listed on the waiting list
  - To any particular position on the waiting list
  - To be admitted to the program
- Applicants do have a right to bring a judicial action to challenge a PHA violation of a constitutional or statutory requirement.

HABC ACOP, Section 3.2

- To apply for housing, an applicant must be an adult who is at least 18 years of age or an emancipated minor.

INITIAL APPLICATION FOR ASSISTANCE

HB 7465.1, para. 2-1(a)(2)

- All potentially eligible persons who express a desire to participate in the program must be given an equal opportunity to apply for assistance whenever the waiting list is open.

HB 7465.1, para. 1-3(a)(1) & (2)

- The PHA is responsible for receiving and processing applications in a way which treats all applicants fairly and consistently.

HB 7465.1, para. 2-1(a)(1)

- For each applicant, there must be a written application form for placement on the waiting list and admission.

HUD Guidance

- HUD recommends that PHAs use a preapplication that collects only the information necessary to make a preliminary eligibility determination. A complete application is then taken just prior to the offer of a public housing unit.

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HABC ACOP, Section 3.3

- When the waiting list is open, applicants must complete a preliminary application (pre-application) through HABC's on-line applicant portal. The on-line portal may be accessed via computer, smart phone, tablet or at kiosks located at HABC's Admissions and Leasing Office and at various other HABC properties.
- Pre-applications will be made available in an accessible format upon request from a person with a disability. Persons with disabilities may call HABC if they need a reasonable accommodation to complete the pre-application through the on-line portal.
- The purpose of the pre-application is to collect information needed to place applicants on the appropriate waiting lists based on developments selected by applicants. Interviews are not conducted as part of the pre-application process. If an applicant does not select specific developments, HABC will place the applicant on the centrally administered First Available Waiting List.
- Upon submission of the completed pre-application and development selection form, where applicable, applicants will be placed on the applicable waiting list.
- Appendix D of the ACOP contains a listing of properties and the applicable waiting lists which are used to fill vacant units.

Notice PIH 2012-22

- Form HUD-92006, Supplement to Application for Federally Assisted Housing, must be provided to families "at the time of application." The form gives the family the option to provide contact information for a friend, family member, organization, or advocate that can assist in providing services or special care to the family, and in resolving any tenancy issues that may arise.
  - The family is not required to provide the information.

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- The PHA should give the family the opportunity to revise or remove contact information at admission, annual reexamination, or at any other time.

HB 7465.1, para. 2-1(a)(2)

- The PHA must accept an application even if an informal discussion reveals the applicant may not be eligible (unless the waiting list is closed).

HB 7465.1, para. 2-1(b)(10)

- Families should not be discouraged from applying or be rejected out of hand, based on "apparent ineligibility."

CFR 960.208

- Applicants must be admitted, placed on the waiting list, or rejected.

HABC ACOP, Section 3.4

- An applicant will be placed on the waiting list if the pre-application includes:
  - Name of the head of household and all household members.
  - Dates of birth of the head of household and all household members.
  - Social Security number for head of household, where applicable. Social Security numbers of the other household members will be requested during the eligibility screening).;
  - Mailing address.
  - Annual income for the household.
  - Race and ethnicity of the head of household.
  - Acknowledgment by the head of household of the accuracy of the information provided; and
  - Locations of sites where applicant would accept a unit or determination to be placed on the 1st available waiting list, where applicable.

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- HABC will not pre-screen pre-applications. Information on the application will not be verified until the applicant has been selected for the eligibility determination. Eligibility will be determined when the full application process is completed, and all information is verified.

CRITERIA FOR WHO MAY APPLY

- PHA may adopt criteria defining what families may apply under a public notice.
  - For example, the public notice might announce that the PHA is only accepting applications for 1-bedrooms from elderly/disabled families.
- May decide that applications will only be accepted from families who qualify for certain preferences, types of projects, or for certain sizes or types of dwelling units.

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Section 2.2 Waiting List Management

MANAGING THE WAITING LIST

HABC ACOP, Section 3.4.1 and 3.4.2

- HABC operates three types of waiting lists:
  - A Centrally Administered Location-Based Waiting List (CALBWL);
  - A Centrally Administered First Available Waiting List (CAFAWL); and
  - For families who qualify, a Centrally Administered Mixed Population Bailey Waiting List (CAMPBWL)
- Applicants may not be on both the centrally administered CAFAWL and CALBWL.
- HABC plans to fully transition its Public Housing waiting list to the CALBWL and CAFAWL systems. While HABC's software is not yet updated to reflect the CALBWL and CAFAWL at the point of application, HABC will employ a modified approach to its administration of its CALBWL and CAFAWL.
  - HABC will continue to select applicants from its conventional public housing waiting list based on preference, date and time of application, and unit size.
  - At the time of the HABC eligibility screening, applicants will choose up to three developments where they would like to live from within HABC's general family, scattered sites, Non-Elderly, Non-Disabled RAD properties, and LTA units which are not designated as Elderly or Disabled.
  - Based on their selections, HABC will place the applicant on the waiting list(s) ready pool for their chosen development(s).

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- An applicant also has the option to choose the first-available waiting list if they have no preference for location. Applicants who choose the first available option will be placed on the waiting list ready pools for all developments where they are eligible according to their unit size and unit features.

- HABC will manage it waiting lists in a manner that is consistent with HABC's activities to affirmatively further fair housing, such as marketing to groups least likely to apply for public housing.

- In addition, HABC will have a system for regular review of the results of the location-based waiting list operation to examine any changes in the racial and/or ethnic makeup and changes in disability and familial status of each site.

CENTRALLY ADMINISTERED LOCATION BASED WAITING LIST: CALBWL

- CALBWL covers units at:
  - Conventional public housing developments
  - Scattered sites
  - Non-Elderly, Non-Disabled RAD properties
  - Properties with LTA units which are not designated as NED or UFAS
  - Properties with public housing units that are in privately owned/managed properties, and which are not designated as NED or UFAS units.

- Where Referral Program (Special Programs) are concerned, applicants are referred directly to HABC under Special Programs or Allocations and are offered units covered under the CALBWL.

- Families may select up to 3 developments on the CALBWL.

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CENTRALLY ADMINISTERED MIXED POPULATION BAILEY WAITING LIST: CAMPBWL

- HABC also operates a CAMPBWL waiting list.
- A mixed population development is one that is occupied by families whose head, spouse, or sole member is at least 62 years of age, and by families whose head, co-head, spouse, or sole member is a non-elderly person with a disability.
- "**Bailey Consent Decree**" **refers to the Consent Decree**, as amended or modified, entered in Bailey v. Housing Authority of Baltimore City, JFM 02-CV-225; JFM-04-CV-03107. It established "**Long Term Affordable units**" **or** "**LTA units**." These units shall remain affordable for a period of 40 years consistent with requirements under the Bailey Consent Decree. The LTA units for non-elderly persons with disabilities ("NED") shall be reserved exclusively for NEDs for a period of 15 years. The applicants and tenants in these units have any and all rights, privileges and benefits that are provided to HABC's public housing residents or applicants and such tenants shall pay no more than 30% of their monthly adjusted income in rent as participants in the Housing Choice Voucher Program. Notwithstanding the above, no minimum income is required. NED and UFAS LTA units must be operated and maintained in accordance with the terms stated herein.
- Families meeting the eligibility requirements for the CAMPBWL may select to be listed on the CAMPBWL and may select up to two developments on the CALBWL.

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- Mixed population developments and other units covered under Bailey
- Properties with LTA units which are designated as NED or UFAS units
- RAD properties with elderly/disabled designations
- Properties with public housing units that are in privately owned/managed properties, and which are designated as NED or UFAS units.

- Families cannot select specific developments covered under CAMPBWL.

CENTRALLY ADMINISTERED FIRST AVAILABLE WAITING LIST: CAFAWL

- This waiting list includes all units/developments not covered under the Centrally Administered Mixed Population & Other Units Covered under Bailey (CAMPBWL).
- Families selecting the CAFAWL may not select any other waiting list option.
- Families who select the CAFAWL are listed on all the development waiting lists for which they are eligible, including those developments covered under the CALBWL and CAMPBWL.
- Families offered a unit will be removed from the waiting list if the offer is refused without good cause.
- Families may select from the list of waiting list options below; however only families meeting the eligibility requirements for the CAMPBWL may select to be listed on the CAMPBWL.

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- Additionally, families meeting the eligibility requirements for the CAMPBWL may select to be listed on the CAMPBWL and may select up to two developments on the CALBWL.
  - CAFAWL only; or
  - CALBWL: Up to three developments covered under the CALBWL.
  - CALBWL and CAMPBWL: Up to two developments covered under CALBWL and selecting to be listed on the CAMPBWL. For example, an elderly family or a non-elderly person with a disability may choose to be on the list for the developments covered by the CAMPBWL and may also choose to be listed on the CALBWL for two family developments such as Brooklyn Homes and Cherry Hills Homes, etc.; or
  - CAMPBWL only, for three offers for developments covered by this waiting list.
- All waiting lists will be maintained and operated in a manner that is consistent with applicable civil rights and fair housing laws and regulations.

OPENING AND CLOSING THE WAITING LIST

- The PHA should develop policies on how they plan to inform the public when they open, close or restrict the waiting list.
- PHA may stop accepting new applications when the waiting list is adequate to fill potentially available units within a PHA-determined period of time (e.g., 12 months).

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- *Note:* Public Housing Guidebook references CFR section 982 regarding opening and closing the waiting list.
  - Section 982 is applicable to the Housing Choice Voucher program
  - Public housing regulations do not specify procedures for opening and closing the list

HABC ACOP, Section 3.8

- Generally, HABC will close the waiting list in whole or in part if there are enough applicants to fill anticipated openings for the next five years.
- The waiting list may not be closed if doing so would have a discriminatory impact inconsistent with applicable civil rights and fair housing laws and regulations.
- Closing of the waiting list will be announced on the Baltimore Housing website and in newspapers of general circulation, minority publications, and other suitable media outlets. HABC will give at least 30 days' notice to the public prior to closing the list.

HABC ACOP, Section 3.9

- When HABC opens the waiting list, HABC will provide notice of the opening on the Baltimore Housing website and in newspapers of general circulation, minority publications and other suitable media outlets. The notice will be made in an accessible format if requested.
- To reach persons with disabilities, HABC may provide separate notice to local organizations representing the interests and needs of persons with disabilities.
- The waiting list shall be open for the period needed to cover projected turnover for the next five years.
- When a PH development opens, that is part of an existing Location Based Waiting List; HABC will use the existing waiting list to select applicants.

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- When a new public housing development opens which is not part of an existing CALBWL, HABC will use the CAFAWL to select applicants for this development. When a determination is made to open a Waiting List for this development, HABC will provide notice of the opening consistent with the policies in this ACOP. Existing applicants who would be eligible for housing at the new development will be allowed to change their site selection and choose the new site; however, the date and time of application for the new site will reflect the date and time the change was requested. Applicants on the CAFAWL may also convert to a CALBWL and choose the new development; however, their date and time of application will be updated to reflect the date and time the change was requested. Retention of date and time of application when changes are made is subject to the policy on reporting changes while on the waiting list.

REPORTING CHANGES WHILE ON THE WAITING LIST

HABC ACOP, Section 3.14

- While a family is on a waiting list, the family must inform HABC of changes in family composition, preference status, site selections, and contact information.
- The changes must be submitted on the portal in person to HABC, via US Mail or fax.
- Changes in the family's circumstances while on a waiting list may affect the family's qualification for a particular bedroom size or preference and/or estimated wait time.

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CHANGES IN FAMILY COMPOSITION

- If a family reports a change in family composition while on the waiting list, the family will retain its date and time of application, but the family's position on the waiting list will be updated to reflect the updated information/selection.
    - For example, a family qualifies for a two-bedroom unit and selects three developments with two-bedroom units. After six months on the waiting list, another family member moves in with the family, and now the family qualifies for a three-bedroom unit if the family reports this change to HABC and any of the sites they originally selected do not have three-bedroom units, the family will be able to select new sites that can accommodate the family's new family size and retain its original application date and time.
- If the proposed Head of Household of an applicant family dies before a unit offer is made, an adult family member, listed in the current application, may be instated as Head of Household.

CHANGES IN SITE SELECTION

- A family may change its CALBWL site selections while on the waiting list; however, the family's date and time of application will be updated to reflect the date and time of the change in site selections.
    - For example, if a family only selects two CALBWLs and later decides to add a third CALBWL, the date and time of application for the third CALBWL will reflect the date and time of the request. The date and time for the two original locations will remain unchanged. Conversely, if an applicant selects three CALBWLs and later requests to be removed from two of the CALBWLs, the applicant will retain his/her date and time of application for the one remaining CALBWL.

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- If an applicant on the waiting list ages in place and is now elderly or if an applicant becomes disabled while on the waiting list, HABC will allow the applicant to change a CALBWL selection or choose the CAMPBWL, as applicable, and retain their date and time of application for the new selections.

- A family may only select sites which have the appropriate unit size for the family's size and for which they are eligible based on family composition.

    - For example, a family who qualifies for a one-bedroom unit may not select a site with only three-bedroom units. Additionally, developments which are elderly only developments may only be selected by households whose head, co-head or spouse is elderly.

CHANGES IN TYPE OF WAITING LIST

- While on the waiting list, a family may move from CALBWLs to CAFAWL. If a family switches from CALBWL to CAFAWL or from CAFAWL to CALBWL, the family's date and time of application will be updated to reflect the date and time of the change in waiting list.

SPLIT HOUSEHOLDS

- When a family on the waiting list(s) split up into two otherwise eligible families, only one of the new families may retain the original pre-application date.

- Other former family members may submit a new pre-application with a new pre-application date if the waiting list(s) is open.

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- In the absence of a judicial decision or an agreement among the original family members, the original head of household will retain the pre-application date. The head of household may allow another adult household member on the application to retain the original pre-application date.
- Except under the following conditions, HABC has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:
  - If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, HABC will ensure that the victim retains assistance.
  - If a court determines the disposition of property between members of the assisted family, HABC is bound by the court's determination of which family members continue to receive assistance.
- Exceptions to the policy will be made on a case-by-case basis and may include consideration of the following factors:
  - The interest of any minor children, including custody arrangements.
  - The interest of any ill, elderly, or family member with a disability.
  - The interest of a family member who is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking including a family member who was forced to leave an assisted unit because of such actual or threatened abuse.
  - Any possible risks to family members because of domestic violence, dating violence, stalking, sexual assault, or criminal activity; and
  - The recommendations of social service professionals.

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- If two families living together apply as a family unit, they will be treated as a family unit.

PURGING THE WAITING LIST

HB 7465.1, para. 2-3(2)

- Purging of waiting list is up to PHA discretion.

HABC ACOP, Section 3.10

- Applicants are responsible for updating their application to reflect changes as needed to ensure that all applicants and applicant information is current.
- HABC will send an update request via first class mail to applicants identified for update of their application information.
- The update request will be sent to the last address that HABC has on record for the family.
- If the update request is returned to HABC with a forwarding address, HABC will resend the update request to the new address.
- If the update request is returned with no forwarding address or if the update request is not returned within the required time frame, HABC will suspend the application for one year from the waiting list update request due date.
- If during that one-year period, the applicant contacts HABC, HABC will reinstate the applicant on the waiting list with his/her date and time of application.
- Additionally, where additional contact information (phone, e-mail, emergency contact) is available, HABC will attempt to contact the family using the family's alternate contact information during the one-year suspension period.

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- If after the one-year suspension period ends, and the applicant has not contacted HABC or responded to HABC update efforts, HABC will withdraw the applicant's name from the waiting list.
- When an applicant is removed from the waiting list during the update process for failure to respond to an update request, no informal hearing will be offered. The applicant's failure to respond prevents HABC from making an eligibility determination; therefore, no informal hearing is required.
- When an applicant is removed from the waiting list for failure to respond, HABC may reinstate the applicant if the lack of response was due to HABC error, or in response to an applicant's reasonable accommodation request (indicating that the failure to respond was due to a disability) or due to circumstances beyond the applicant's control.

REMOVAL FROM WAITING LIST

CFR 960.204
- The PHA's ACOP must state criteria for removal from the waiting list; for example, failure to respond to requests for information or updates.

CFR 8.4
- Policy must not violate rights of disabled persons under regulations.
  - Applicants with disabilities who do not respond within stated time frames should be reinstated IF they did not respond due to a *verified reason connected to a disability* and have requested reinstatement.

CFR 8.11
  - Must provide reasonable accommodation, such as home visits for those who cannot come to office.

CFR 8.11
  - PHA is obligated to make application process available to applicants with a full range of disabilities.

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HB 7465.1, para. 1-2(a)

- PHAs must document the reason any applicant's name was removed from the waiting list.

HB 7465.1, para. 2-3(b)(7)

- PHAs should not remove an applicant's name from the waiting list unless:
  - Applicant requests it,
  - Applicant was clearly advised of a requirement to notify the PHA of his/her continued interest by a particular time and failed to do so, or
  - PHA has made reasonable efforts to contact the applicant to determine if there is continued interest, but has been unsuccessful, or
  - PHA has notified the applicant of its intention to remove the applicant's name because of ineligibility
- The Public Housing Occupancy Guidebook distinguishes between "withdrawing" and "rejecting" applications
- Withdrawing applications:
  - Applicant request
  - No response to purge letter (includes mail returned)
  - No response to PHA request for interview or additional information
    - Give deadline to reschedule
  - No informal hearing rights
- Rejecting applications
  - Denials due to ineligibility or screening
  - Must give written notice
  - Has right to informal hearing

HABC ACOP, Section 3.11

- HABC will follow applicable regulatory requirements for notice of removal.

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- Applicant's names will be removed from all public housing waiting lists as a result of any of the following.
  - Being housed in a PH/RAD unit
  - Being withdrawn
  - Being determined ineligible by HABC
  - Refusal—an applicant refused the threshold number of offers of housing without Good Cause; and
  - Upon written request by the applicant family. In such cases no informal hearing is required.
- For the two policies below, rejection assumes that the cause is not related to an actionable unit which would result in rejection at any development, i.e., lifetime sex offender registration requirement.
- HABC will remove an applicant's name from a development's CALBWL when an owner/management agent rejects an applicant from a specific development. The applicant will retain placement on all other CALBWLs even if managed by the same owner/management agent. HABC will allow the applicant to select a new CALBWL and retain his/her date and time of application.
- Where an owner/management agent rejects an applicant from a development covered by the CAFAWL or CAMPBWL, HABC will retain the applicant's placement on the CAFAWL and CAMPBWL; however, the applicant will no longer be offered units at the development where they were rejected.

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ORGANIZING WAITING LISTS

GENERAL REQUIREMENTS

CFR 1.4(b)(2)(ii)
HB 7465.1, para. 5-6(a)(1)

- PHAs must organize the waiting list(s) to assure that applicant selection takes place according to Program requirements and PHA policy.
- The waiting list must be organized to indicate the following:
  - Family name
  - Family type (elderly, family member(s) with disabilities)
  - Date and time of application receipt
  - Unit size
  - Any admission preferences for which the family may be eligible
  - Whether special unit is needed
  - Racial and ethnic designation of Head of Household

HABC ACOP, Section 3.5

- HABC will organize the waiting list to allow for the accurate identification and selection of applicants in proper order, according to the admissions policies described in this ACOP.
- The waiting list will contain the following information for each applicant listed:
  - Name and social security number of head of household
  - Apartment size required (as determined by the occupancy standards for the applicant's family composition)
  - Gross household income
  - Accessibility requirement, if any
  - Date and time of application and/or application number

- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific development(s) selected, if applicable

CFR 1.4(b)(2)(ii)

- The waiting list must contain enough information to allow selection from the waiting list according to the PHA's ACOP) Policy.

CFR 960.201(c)

- Any system the PHA uses to maintain its waiting list must document how and when applicants are selected, in a way that allows for a clear, easy-to-understand HUD management review.

HUD Guidance

- The waiting list is the beginning of a "paper trail" and must enable a reviewer to immediately determine the selection process to compare with the PHA's policies.

HB 7465.1, para. 5-7(a)(1)

- PHAs must organize their waiting lists in a manner which easily permits them to identify which applicants need which type of project, size and type of unit, and the priority each applicant has for admission based on the preferences and date and time.

HB 7465.1, para. 5-6(b)(1)

- Several sublists (or lists within lists) may be created in order to more easily identify who should be offered an available unit.
  - For example, elderly and disabled families for "mixed population" developments (formerly referred to as "elderly-designated" developments).

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SPECIAL TARGETING WITHIN LISTS

HB 7465.1, para. 5-7(a)(1) & CFR 960.407(b)

- In public housing, if a family requires an accessible unit, it should be noted so that when that type of unit becomes available, the next family with that need can be quickly located.

HABC ACOP, Section 5.10

- HABC has units designed for persons with mobility impairments, referred to as UFAS Accessible Units.
- Where a family needs a 2 or more BR units on one level without steps, the only available units which meet this qualification are UFAS Accessible Units. As such, families who are verified to need such a unit, may be offered a UFAS Accessible Unit.
- Applicants in which no household member has a mobility impairment will not be offered these units until all residents and applicants who are eligible for the size of the available UFAS Accessible unit and who have a household member who has a mobility impairment have been considered.
- Before offering a vacant UFAS Accessible unit to an applicant in which no household member has a mobility impairment, HABC will offer such units:
  - First, to a current resident at that HABC development who was approved by HABC to transfer to a UFAS Accessible unit and who is on HABC's reasonable accommodation transfer waiting list because the resident or a household member has a disability that requires the special features of the vacant unit.
  - Second, to a current resident at another HABC development who was approved by HABC to transfer to a UFAS Accessible unit and who is on HABC's reasonable accommodation transfer waiting list because the resident or a household member has a disability that requires the special features of the vacant unit.

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- Third, to an eligible qualified applicant on HABC's public housing waiting list who has a disability that requires the special features of the vacant unit or who has a household member who has a disability that requires the features of the unit.

• When offering a UFAS Accessible unit to an applicant in which no household member has a mobility impairment, HABC will require the household to agree to move to an available non-UFAS/non-accessible unit within 30 calendar days when either a current resident or an applicant needs the features of the unit and there is another unit available for the household in which no household member has a mobility disability. This requirement will be a provision of the lease agreement.

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Section 2.3 Preferences

ADMISSION PREFERENCES

CURRENT REGULATIONS GOVERNING PREFERENCES

CFR 960.206(a)

- A PHA may adopt a system of local preferences for selection of families admitted to the PHA's public housing program.

HB 7465.1, para. 5-6

- In public housing, the size and type of unit, and type of project, take precedence over selection preferences.

HUD Guidance

- Preferences are optional.

HUD Guidance

- Preferences affect only the order of applicants on a PHA's waiting list.
  - They do not make anyone eligible who was not otherwise eligible.
- A PHA's selection preferences must be described in its PHA Plan and ACOP.

HUD Guidance

- A PHA should clearly define any preferences that it adopts.
  - The definitions should be simple enough so that:
    - Families claiming preferences clearly understand what they are claiming
    - Preferences can be easily verified

CFR 960.206(a)(4)

- A PHA must inform all applicants about available preferences and provide them with an opportunity to show that they qualify for available preferences.

CFR 960.206(a)(3)

- A PHA may limit the number of applicants that may qualify for any local preference.
- A PHA must inform applicants of the right to change preference status while on the waiting list.

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CFR 960.206(e)(1)

- A PHA must use either of the following to select among applicants with the same priority for admission:
  - Date and time of application
  - A drawing or other random choice technique

CFR 960.206(e)(2)

- The method for selecting applicants must leave a clear audit trail to verify each applicant has been selected in accordance with the method specified in the PHA Plan.

LOCAL PREFERENCES

HABC ACOP, Section 5.3

- Local preferences are used to prioritize applicants on the waiting list.
- Among applicants with equal preference status, the waiting list will be organized by date and time.
- Public notice will be given before HABC adopts any new local preference.
- HABC uses the following Local Preferences:

1. Emergency Preferences
   - Families displaced due to Natural Disaster in the Baltimore metropolitan area. (head, cohead, or spouse must have been displaced)
   - Intimidated Crime Victims and Intimidated Witnesses of Crime Referred by the Maryland State's Attorney or Deputy Attorney, the United States Attorney's office, or authorized persons within a law enforcement agency. Applies to any family member.

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- Families displaced from the family's residential housing unit due to governmental action that occurs in Baltimore City. Head, cohead, or spouse must be the person who is displaced. For these purposes, the term “residential housing unit” means real property that: (1) contains a permanent structure constructed, or otherwise approved by the governing government authorities, for human habitation in accordance with applicable building codes; (2) has an address recognized by the United States Postal Service for delivery of mail; and (3) is occupied by the owner or by verified permission of the owner. For these purposes, Government action does not include acts to remove a person from any land, structure, place, space, or thing, which such person has no legal right to occupy or remain.
- HABC will select applicants with the emergency preference after selecting transfer families with any type of emergency preference and before other transfer families.

2. Either the head of household, cohead, spouse, or sole member of the family is:
   - Employed
   - Age 62 or older
   - Enrolled in an approved Job Training Program.
   - A veteran: or
   - A family where one or more members is a person with a disability.
3. Residency Preference:
   - HABC will grant priority within each preference categories to families where the head, co-head, or spouse is a resident of Baltimore City/County.
   - Applicants who do not live in Baltimore City/County will only be considered for assistance after the waiting list is exhausted of applicants who live in Baltimore City regardless of preference.

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- Applicants who are working or who have been notified that they are hired to work in the Baltimore City/County area will be provided with a residency preference.

4. Scattered Site Incentive Transfer Preference:
   - Upon implementation, scattered site units will be solely offered to existing HABC Public Housing families who request the transfer and who meet the Scattered Site Incentive transfer eligibility criteria which can be found in the Transfer chapter under scattered sites incentive transfer.
5. Tenant Based and Project Based Displacement Preference:
   - HABC will provide an admission preference to tenant-based and project-based families displaced due to HQS/NSIPRE non-Compliance in accordance with the regulations at 24 CFR 982.404(e)(2) and 24 CFR 983.208(d)(6)(ii).

SPECIAL HOUSING INITIATIVES

HABC ACOP, Section 5.4

- HABC may develop special housing initiatives that receive limited local preference through HABC Board approval. These special initiatives are targeted for specifically named families and may be based on HABC and community priorities or HUD targeted funding. In addition, SHIs may include a defined number of PH units that will be allocated to families meeting specific described criteria. An example of special housing initiative is the program for homeless families referred by the Mayor's Office of Homeless Services (OHS).

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- The number and type of housing opportunities, eligibility and admissions criteria, lease terms, rent payments, and other terms and conditions may vary from program to program. The terms and conditions of each Special Housing Initiative shall be described in MOUs or other agreements subject to Board approval.
- Generally, applicants for SHIs are referred to HABC. When referred to HABC, these families may have already been determined eligible based on the referring organizations criteria. However, these families must meet HABC income and other eligibility requirements in order to be housed. In establishing special housing initiatives, HABC will determine the priority given to special housing initiative applicants, including if appropriate, the ratio of admissions of standard applicants to special initiatives applicants.

HOMELESS FAMILIES REFERRED BY THE MAYOR'S OFFICE OF HOMELESS SERVICES (OHS)

HABC ACOP, Section 5.4.1

- Pursuant to an agreement between HABC and the program funder, HABC will provide an allocation of up to 100 public housing units for families referred by the Mayor's OHS through their Coordinated Access database.
- Applicants for units allocated under the Homeless allocation must meet HABC eligibility and screening requirements.
- Eligible applicants will be assigned appropriately sized units at family developments. Each family referred under this program will have a primary service provider who will coordinate and monitor all program activities.

- Families will be required to comply with and complete their service programs, which may include services such as addiction, anti-aggression, family, and mental health counseling. HABC has the right to terminate a family's lease due to the family's failure to comply with and complete the family's service program.
- The family must also comply with the terms of the family's HABC lease.

PREFERENCE PROHIBITIONS

- A PHA may not adopt a preference for admission of:

CFR 960.206(3)

  - Persons with a specific disability

HUD Guidance

  - Families who agree to participate in the family self-sufficiency program

PH Handbook 7465.1, Chapter 5

- A PHA may not give elderly a preference over families with children in general occupancy units.

CERTIFICATION/VERIFICATION OF PREFERENCE

HUD Guidance

- At the time of initial application, applicants only need to certify that they are eligible for a preference; they do not have to verify their eligibility.

Industry Practice

- Agency policy must describe preference verification procedures and requirements.

HABC ACOP, Section 5.2

- Applicants are contacted by HABC when they reach the top of the waiting list to verify their preference.
- HABC will verify during the full eligibility determination interview whether the applicant meets the criteria for the preference.
- When a family reports a change in preference status while on the waiting list, HABC will update the preference but retain the date and time of application.

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- The family's position on the waiting list will reflect the change in preference status.
- Families will be required to provide verification of any claimed preference at the time of screening.

NOTICE OF PREFERENCE DENIAL

HABC ACOP, Section 5.11

- If HABC denies a preference, the applicant will be placed on the waiting list without benefit of the preference.
- HABC will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review. The applicant must request an informal review within 14 calendar days. The request must be made in writing. If the preference denial is upheld, the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference.

Section 2.4 Family Type

HOUSEHOLD

CFR 5.100

- HUD defines *household* as the family and the PHA-approved live-in aide.

FAMILY

CFR 5.403

- HUD defines *elderly*, *disabled* and *displaced* families. *Family* includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
  - A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person
  - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age who has left foster care or will leave foster care within 90 days, and is homeless or at risk of becoming homeless at age 16 or older; or
  - A group of persons residing together and such a group includes, but is not limited to:
    - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family)
    - An elderly family
    - A near-elderly family
    - A disabled family
    - A displaced family
    - The remaining member of a tenant family
- The PHA determines in PHA policy what groups other than the HUD-defined groups constitute a family.
- HABC uses the above definition of family in its ACOP.

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FR Notice 02/03/12

- *Gender identity* – Actual or perceived gender characteristics.
- *Sexual orientation* – homosexuality, heterosexuality, or bisexuality.

COHEAD

50058 Instruction Booklet

- A person equally responsible for the lease with the head of household.
- There can only be one cohead per household and a family cannot have both a spouse of head and cohead.
- The cohead can never be a dependent. If under 18 years of age, they must be declared an emancipated minor under the state law of the PHA's jurisdiction.

ELDERLY FAMILY

- Use for purposes of preference and allowances/ deductions.

CFR 5.403, HUD-50058 Instruction Booklet, and FR Notice 02/02/12

- An elderly family includes:
  - A family whose head, spouse, cohead or sole member is at least 62 years of age, or
  - Two or more persons at least 62 years of age living together, or
  - One or more persons at least 62 years of age living with one or more live-in aides.
- Nothing in the definition of *elderly family* excludes children.

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NEAR-ELDERLY FAMILY

CFR 5.403, FR Notice 02/03/12

- A *near-elderly family* is defined as a family whose head, spouse, cohead, or sole member is:
  - At least 50 years old, but under 62 years of age
  - Two or more such persons living together
  - One or more such persons living with one or more live-in aides.

NON-ELDERLY PERSON WITH A DISABILITY FAMILY

HABC ACOP, Section 4.2.6

- A non-elderly person with a disability family is a family whose sole member, head of household, or head of household's spouse is a person with a disability who is under the age of sixty-two (62), and who is eligible for a one-bedroom public housing unit or for a two-bedroom public housing unit because a second bedroom is needed for disability related reasons.
- A non-elderly person with a disability may qualify for LTA units designated for non-elderly persons with disabilities, an HABC mixed population development or a RAD mixed population development.

DISABLED FAMILY

CFR 5.403, HUD-50058 Instruction Booklet, and FR Notice 02/02/12

- A family whose head, spouse, cohead or sole member is a person with disabilities, or
- Two or more persons with disabilities living together, or
- One or more persons with disabilities living with one or more live-in aides.
- In any case, one of the people with disabilities must be the head or spouse.

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HUD Definition of Persons with Disabilities

- Note: See full *social security* and *developmental disability* definitions under "Legislative Reference" on the page following.

CFR 5.403

- The term *person with disabilities* is defined in Section 3(b) of the 1937 Housing Act (42 U.S.C. 1437a(b)).
- 42 U.S.C. 1437a(b) defines *person with disabilities* as a person who:
  - Has a disability as defined in 42 U.S.C. Section 423
  - Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)).
  - Has a physical, mental, or emotional impairment that:
    - Is expected to be of long-continued and indefinite duration,
    - Substantially impedes his or her ability to live independently, and
    - Is of such a nature that ability to live independently could be improved by more suitable housing conditions.
- Persons who have acquired immunodeficiency syndrome (AIDS) or any conditions arising from the AIDS virus are not excluded from this definition.

42 U.S.C. 423(d)(2)(C) and 42 U.S.C. 1437a(b)(3)(E) (the Housing Act as amended by the 1998 Public Housing Reform Act). See also FR 7/23/99, One Strike Proposed Rule, preamble
CFR 5.403

- Individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.
- Individuals whose alcoholism or drug addiction is a material factor to their disability are excluded from the definition.
- Individuals are considered disabled if the disabling mental and physical limitations would persist if the drug or alcohol abuse discontinued.

LEGISLATIVE REFERENCE

1. 42 U.S.C. Section 423 (d)(1)(A) defines *disability* as:

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

   In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."

2. The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)) defines *developmental disability* in functional terms as:

   "A severe, chronic disability of a person 5 years of age or older which:

   (A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

   (B) is manifested before the person attains age twenty-two;

   (C) is likely to continue indefinitely;

   (D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

   (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

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CONTINUED QUALIFICATION AS FAMILY WITH DISABILITIES

HUD Guidance

- A family must continue to qualify as a disabled family at reexamination in order to continue receiving any disability-related deductions.
- To qualify as a disabled family, the head and/or spouse must be a person with disabilities.
- After admission, a person with disabilities who "recovers" can remain in assisted housing, but is no longer considered a "person with disabilities," and cannot qualify for deductions allowed family members with disabilities.

Industry Practice

VERIFICATION OF DISABILITY

- Verified by a knowledgeable professional source that the person meets this criteria, using the exact wording in the HUD definitions.

42 U.S.C. 1437a(b)(3)(E)

- Receipt of Social Security Disability or Supplemental Security Income is verification of disability. If such benefits are not received, the following can provide a basis for verification:

Industry Practice

  - Letters regarding qualification for SSI payments
  - Proof of residence in an institution
  - Documents showing hospitalization for a disability
  - Letter from another knowledgeable professional, such as a health or service professional or a social worker

- PHA may not require a statement or verification from a physician when adequate verification is available from other sources.

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HUD Guidance on Reasonable Accommodation

CFR 8.11

- HUD advises that if a PHA does not make accommodations for a person with disabilities, they are open to a discrimination suit based on 504 if the accommodation is not an undue financial or administrative burden and it would not fundamentally alter the basic nature of PHA responsibilities.
- Remember that the definition of "disabled" for purposes of reasonable accommodation is much broader than the HUD definition used for eligibility and allowances.

Displaced Family

CFR 5.403

- A family in which each member, or sole member, is a person displaced by governmental action.
- A person whose dwelling has been extensively damaged or destroyed as the result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Single Persons

CFR 5.403

- All single persons are eligible if they meet other eligibility criteria. A single-person family may be:
  - An elderly person (62 and over)
  - A displaced person
  - A disabled person
  - Any other single person who is not elderly, displaced or disabled, or the remaining member of a tenant family.

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Industry Practice

- If single person is pregnant:
  - No allowance for unborn child.
  - Income limit for one-person family is used.

HUD Guidance

- The PHA is not required to distinguish single pregnant women from any other group of singles.

LIVE-IN AIDE

CFR 5.403
CFR 966.4(d)(3)

- A person who resides with person(s) who are elderly and/or have a disability, and:
  - Is determined by the PHA to be essential to the care and well-being of the person(s).
  - Is not obligated for support of the person(s).
  - Who would not be living in the unit except to provide necessary supportive services.

HUD Guidance

- Relatives are not automatically excluded. The relative must meet the requirements stated above to qualify.
- Originally HUD anticipated that live-in aides would be single persons and that only one additional bedroom would be required.

HUD Letter, Chicago Office, 7/3/90

- HUD now allows a live-in aide's family members to reside in the unit, provided the presence of the live-in aide's family does not overcrowd the unit.
- In making decisions pertaining to the family members of live-in aides, a PHA cannot refuse to approve a particular live-in aide simply because they have children, since this would be familial status discrimination.

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HUD Guidance

- At any time, the PHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if the person:
  - Commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
  - Commits drug-related criminal activity or violent criminal activity
  - Currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

HABC ACOP, Section 4.4

- A live-in aide may only reside in the unit with the approval of HABC. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker certifying that a live-in aide is needed for the care of the family member who is elderly or a person with a disability.
- Additionally, HABC will re-verify the need for the live-in aide at each regular reexamination.
- If HABC does not approve the addition of a live-in aide, HABC will notify the family, in writing, and provide the family with an opportunity to request a grievance hearing.
- If an existing live-in aide is no longer for occupancy in the assisted unit, the live-in aide must vacate the unit within thirty days of the disapproval notice from HABC.
- After HABC approves the addition of a live-in aide on behalf of an applicant or a resident, the applicant or resident must submit a specific live-in aide's name and information for approval by HABC.

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- Any person proposed as a live-in aide, including relatives, must pass HABC's screening eligibility criteria, including EIV prior debt and adverse termination screening. HABC has the right to disapprove the person identified to be the live-in aide based on the "Other Eligibility Criteria" described in this Chapter, as applicable.
- Because a live-in aide is an individual who resides in a unit to assist a person who is elderly or has a disability, and is not considered to be a household member, it is HABC's policy that no more than one individual at a time may serve as the live-in aide and reside in the resident's unit. HABC is not obligated to house the family members of live-in aides.
- If the live-in aide or a live-in aide's guest violates a lease provision or participates in drug-related or criminal activity, HABC will rescind the live-in aide's right to occupy the unit. When HABC rescinds the live-in aide's right to occupy the unit, the live-in aide is not entitled to the grievance hearing process of the agency.

FOSTER CHILDREN AND ADULTS

CFR 5.603(b)
CFR 5.609(b)(4)
CFR 966.4(d)(3)(i)
HUD Handbook 7465.1, 3.3(b)

- Families may have foster children or foster adults live with them if it would not result in overcrowding. PHAs should adopt reasonable policies regarding PHA approval for foster children or foster adults to reside in the unit.
- Foster children are counted for occupancy standards.

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- HUD defines a foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
- HUD defines a foster child as a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

CHILD CUSTODY

HABC ACOP, Section 4.5

- Dependents who are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.
- When more than one applicant or resident (regardless of program) are claiming the same dependents as family members, the family with primary physical custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family will be allowed to claim the dependents, HABC will make the determination based on available documents such as court orders and IRS income tax returns showing which family has claimed the child for income tax purposes, school records, and/or other credible documentation.
- HABC may make an exception to the Occupancy Standard policy set forth in this ACOP and allow two assisted households space for the same dependent children where there is joint physical and legal custody; however, HABC will only allow one household to claim the dependent deduction. Exceptions to the Occupancy Standard policy for these instances will be reviewed on a case-by-case basis.

REMAINING MEMBER

HB 7465.1, para. 3-5(b)(1)(b)

- The remaining member of a public housing family is a family member listed on the lease who continues to live in the unit after all other family members have left.

HB 7465.1, para. 3-5(b)(3)

- If the remaining member signed the lease, the person could continue in the program under that lease.
- If the remaining member did not sign the lease, the PHA would have to determine whether it would be willing to enter into a lease with that person (considering factors such as suitability for tenancy and their ability to uphold a lease).

HABC ACOP, Section 14.28

- Resident families who separate while being assisted under the federally assisted program will be assessed on a case-by-case basis to determine which family members remain assisted under the program.
- When a new head of household is approved, whether it be an existing family member or a new family member, HABC will:
- Conduct full screening on the new head of household, including criminal background and debt screening.
- Conduct a full reexamination of household composition and income and recalculate rent. A new reexamination anniversary date will be established.
- The policy pertaining to remaining members is as follows:
  - To be considered the remaining member of the resident family, the person must have been previously approved by HABC or the privately owned/managed site to be living in the unit.
  - A live-in aide, by definition, is not a member of the family and will not be considered a remaining member of the family.

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- The head of household, the co-head, or the remaining family member of the household who has custody of any minor children will retain the federally assisted unit.
- In cases where the head of household and co-head of household have a joint custody arrangement for minor children, the original head of household will retain the federally assisted unit.
- In cases where the head of household dies, leaving minor children, the new head of household will be subject to all eligibility and admission requirements of HABC or the privately owned/managed sites. If the new head of household is a current resident of HABC or of a privately owned/managed site, HABC will screen the resident to determine if s/he is in good standing.
- In cases where there are two adult co-heads of household with no minor children, the original head of household will retain the federally assisted unit.
- In cases where a non-related adult has been added to the household, the original head of household will retain the federally assisted unit.
- If the head of household dies or leaves the unit, a remaining adult household member may become head of household if that adult was on the lease and meets all other program eligibility and continued occupancy requirements
- Exceptions to the “remaining family member” requirement will be reviewed by HABC or the privately owned/managed site on a case-by-case basis.
- If a separation is the result of a divorce or separation under a settlement or judicial decree, HABC or the privately managed site will follow any court determination regarding which family members will retain the federally assisted unit.

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- For a minor to continue to receive assistance as a remaining family member, HABC or the privately owned/managed site must verify that the court awarded emancipated minor status to the minor or that the appropriate agency has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period of time. The adult must meet the HABC screening criteria or the screening criteria of the privately owned/managed site unless the adult is already a resident of HABC or a privately owned/managed site, in which case the adult must be a resident in good standing.
- If the Head of Household dies or leaves the dwelling unit permanently for any reason, any remaining family members, who meets the remaining member requirements above, may continue to occupy the unit if there is at least one household member (not a live-in aide) or other individual of legal age who is a citizen or eligible non-citizen, and has capacity to execute the lease, in accordance with state and local laws.
- HABC may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established. Once established, HABC may add the new guardian as the new Head of Household in accordance with its screening policies. This would usually occur when the only remaining family members in the unit are minors, who otherwise would have to leave the unit.
- HABC will not hold remaining family members under age 18 responsible for the rent arrearages incurred by the former Head of Household, nor for any amounts incurred before a new Head of Household attained age 18.

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ELIGIBLE FAMILIES – IMPORTANT CONSIDERATIONS

Public Housing Occupancy Guidebook

- The PHA must determine eligibility without regard to marital status.
- A child may remain in the unit as a *remaining family member* if the PHA permits an adult to move in as the new head of household.
- PHA refusal to allow a tenant to have a foster child or foster children may violate the Fair Housing Act (familial status).
  - *Note:* PHA's Transfer Policy is important here

Section 2.5 Social Security Number Requirements

- The regulations governing disclosure and verification of Social Security numbers were revised effective January 31, 2010. The current regulations cover the requirements for disclosure and documentation of SSNs for every applicant and resident household member. While applicants and residents must disclose and document SSNs under the new regulations, the actual "verification" of SSNs is performed by the PHA through HUD's automated systems. The regulations also provide penalties for failure to disclose or document SSNs.

REQUIRED DISCLOSURE

CFR 5.216;
Notice PIH 2018-24

- All assistance applicants and residents must disclose a complete and accurate SSN for each member of the household, including foster children, foster adults and live-in aides. Children under the age of 6 are no longer exempt from the requirement. However, documentation may be delayed for children under 6 years old who have joined the household within the past 6 months.

- Some household members are exempt from the SSN disclosure requirement. These include:

CFR 5.216(a)

  - Individuals who do not contend eligible immigration status ("non contending" family members in a mixed family paying prorated rent).

    - Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements.

CFR 5.216(e)

- Current residents who had not previously disclosed a SSN, and who were at least 62 years old on January 31, 2010. The exemption applies at all future reexaminations, and continues if the individual transfers to a new unit or receives another form of housing assistance.
- Household members who have already provided a valid SSN prior to January 31, 2010. The new regulations do not require the PHA to re-verify the SSNs of current residents whose SSNs have been validated through HUD's automated systems.

Form HUD-50058 Instruction Booklet

- PHAs are required to create an alternate ID (ALT ID) in HIP for those individuals who have not been assigned an SSN.

REQUIRED DOCUMENTATION

CFR 5.216(g)

- Several forms of documentation are now acceptable. For each household member, the applicant or resident family may provide any of the following:
  - An original social security card issued by the Social Security Administration.
  - Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
  - An original document showing the individual's name and SSN, issued by a federal, state or local government agency. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.

CFR 5.216(i)

- Since SSNs for all household members are now matched against SSA records through HUD's automated systems, the PHA must generally accept any of the documents listed above. The PHA may only reject documents which:
  - Are not original
  - Appear to be forged, or
  - Appear to be altered, mutilated, or not legible.
- If the PHA rejects the family's documentation, the PHA should explain why the documents were not acceptable. The PHA should then request acceptable documentation within a specified time frame.
- The PHA verifies the SSN by making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the family's file. In addition, the PHA records the SSN on line 3n of form HUD-50058 and transmitting the form to HUD in a timely manner.
  - PHAs are required to submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.
- HUD allows PHAs, at their discretion, to remove and destroy SSN documentation from the file once the SSN has been validated through the EIV system. The EIV printout will be considered adequate to verify the SSN. Doing so minimizes the risk of exposing the individual's SSN.

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WHEN DISCLOSURE AND DOCUMENTATION ARE REQUIRED

- The HUD regulations provide differing time frames for SSN disclosure and documentation. The time limits depend upon the assistance program, type of certification, ages of household members and other factors.

CFR 5.216(b); 5.216(h)

- For applicant families, the SSN for each household member (except noncontending persons) must be disclosed and documented when program eligibility is being determined. If otherwise eligible, the family may retain its place on the waiting list pending SSN disclosure and documentation.

  - If a child under the age of 6 years has been added to the applicant household within 6 months prior to the date of admission, an otherwise eligible family may be admitted to the program. The family must provide documentation of the child's SSN within 90 days of admission. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the resident, or was due to unforeseen circumstances. If documentation is not provided within the time allowed, assistance must be terminated.

CFR 5.216(e)

- Current residents who have not previously disclosed a SSN for any non-exempt household member must do so at the next interim or annual reexamination. This includes children under 6 for whom a SSN was not previously provided, family members who certified that they had not been assigned a SSN, and other household members.

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CFR 5.216(e)(2)

- When adding a new household member to a resident family, the time frames depend upon the age of the new member and whether he or she has been assigned a SSN.
  - If the new household member is at least six years old, or is under 6 and already has a SSN, the SSN must be disclosed and documented at the time of the request, or during processing of the interim reexamination to add the new member. The new member cannot be added to the household until this requirement is met.
  - If the new household member is under the age of 6 and has not been assigned a SSN, the resident must disclose and verify the child's SSN within 90 days of the child's addition to the household. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the resident, or was due to unforeseen circumstances. The PHA must include the child as part of the household during this period and must provide the family with any related benefits such as allowances and deductions.

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PENALTIES FOR FAILURE TO DISCLOSE/DOCUMENT SSNS

CFR 5.218;
Notice PIH 2018-24

- The PHA must deny assistance for an applicant family if the regulatory requirements for SSN disclosure and documentation are not met. The applicant must disclose and document the SSN for every household member (except noncontending persons) in order to qualify for the program.

- The PHA must terminate tenancy of resident households if the regulatory requirements for SSN disclosure and documentation are not met. Tenancy must be terminated for the entire household if these requirements are not met for every non-exempt household member.

  - The PHA must defer termination for a period not to exceed 90 days if it determines that the resident's failure to meet the requirements was due to unforeseen circumstances outside the control of the family, and if it is reasonably likely that the resident will be able to disclose and document the SSN(s) by the deadline.

- The PHA must deny admission or terminate the family's assistance, or both, if the family submits falsified SSN documentation.

- The head of household may not remove a household member from the family composition in order to avoid these penalties. Prorated assistance is not permitted in this situation.

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Section 2.6 Restriction on Assistance to Noncitizens

EFFECTIVE DATE AND PURPOSE OF RULE

- Based on the requirements of Section 214 of the Housing and Community Development Act of 1980.
- The purpose of the regulation is to:
  - Provide implementation procedures
  - Ensure only citizens, nationals, and certain categories of eligible immigrants are assisted
  - Preserve family status

DEFINITIONS

CFR 5.504(b)

- *Child*: A member of the family other than the family head or spouse who is under 18 years of age.
- *Citizen*: Citizen/national of the United States.
- *Evidence of citizenship or eligible immigration status*: The documents which must be submitted to establish citizenship or eligible immigration status.
- *Head of household:* The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
- *Mixed family*: A family including citizens or eligible immigrants, and members without citizenship or eligible immigration status.
- *National*: A person who owes permanent allegiance to the United States; e.g., as a result of birth in a U.S. territory or possession.

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- *Noncitizen*: A person who is neither a citizen nor national of the United States.

HUD Guidance

- *Spouse:* The marriage partner, either a husband or wife, who must be divorced to dissolve the relationship. Includes common law marriages, but not boy/girl friends, significant others or co-heads.
- *USCIS:* The United States Citizenship and Immigration Services (formerly INS: Immigration and Naturalization Service).

Rules for Admission

CFR 5.512(a) and (b)

- No family applying for federal assistance may receive such assistance prior to the affirmative establishment and verification of eligibility of at least one family member.

CFR 5.506 (a)
CFR 5.514(c)

- However, if a PHA elects not to affirmatively establish and verify eligibility before providing assistance to a family, the PHA must terminate tenancy if the verification process results in a determination that no family member has eligible immigration status.

General Provisions

CFR 5.506

- Financial assistance in HUD's public housing program is restricted to:
  - Citizens
  - Noncitizens who have eligible immigration status

Notification Requirements

CFR 5.508(f)

- All families must be notified of the requirement to submit evidence of their citizenship status when they apply.

CFR 5.502

- Where feasible, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

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ELIGIBILITY FOR ASSISTANCE

HUD Guidance

- To determine the family type and eligibility status of any family, the eligibility of each individual in the family must be established first.

CFR 5.500

- Individuals will fall into one of these categories:
  - Citizens or nationals
  - Eligible immigrants 62 or older
  - Other eligible immigrants
  - Ineligibles, including noncitizen students on student visas

CFR 5.522

- Providing housing assistance to noncitizen students is prohibited.
  - This prohibition extends to the ineligible noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student
  - The prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance.

Notice PIH 2001-27

- An FAS citizen who is a lawful resident of the United States (including territories and possessions) is eligible for housing assistance.
  - *FAS* stands for 'the Freely Associated States'
    - Republic of the Marshall Islands
    - Federated States of Micronesia
    - Republic of Palau

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FAMILY CATEGORIES

CFR 5.500

- After the status of each person has been determined, families will fall into one of the categories below:
  - All members are either citizens or eligible immigrants.

CFR 5.504(b)

  - Some members are eligible and some are ineligible (mixed family).

CFR 5.500

  - All members are ineligible immigrants.

- The determination of family type is based on individual determinations:

CFR 5.504(b) and 5.506(a)

  - An **eligible** family will be comprised of citizen(s), national(s) or noncitizen(s) with *eligible* immigrant status. Eligible families receive full assistance.

CFR 5.504(b) and 5.506(a)

  - An **ineligible** family is one in which no member is a citizen, national or eligible immigrant. Ineligible families are denied assistance.

CFR 5.504(b)

  - **Mixed families** are comprised of citizen(s) or eligible noncitizen(s) and those without citizenship or eligible noncitizen status. Mixed families receive prorated assistance.

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VERIFICATION REQUIREMENTS

CFR 5.508

- Unlike the third-party verification process for income eligibility, verification of citizenship or national status is provided directly by the family.

CFR 5.508(b)(1)

  - Persons who claim citizenship or national status by executing a signed declaration (Section 214 Status)

CFR 5.508(b)(2)

  - Persons 62 and older who claim eligible immigration status by executing a signed declaration and providing proof of age

CFR 5.508(e)

  - Persons who declare themselves ineligible or don't contend eligibility status

CFR 5.508(b)(1)

- PHAs may require verification of either U.S. citizenship or national status in the form of a U.S. passport, resident alien card, registration card, social security card or other appropriate documentation.

CFR 5.508(b)(3)

- For noncitizens who claim eligible immigration status (other than persons 62 and older), required verification consists of:

  - A signed declaration of eligible immigration status
  - A United States Citizenship and Immigration Services (USCIS) card or other USCIS document
  - A signed verification consent form

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PRIMARY VERIFICATION OF ELIGIBLE IMMIGRATION STATUS

CFR 5.512

- Primary verification of the immigration status of the person is conducted by the PHA through the USCIS Automated Status Verification System (ASVS) online. The ASVS provides access to names, file numbers and admission numbers of noncitizens.
- If the ASVS does not verify eligible immigration status, the PHA must request secondary verification within 10 days of receiving the results of the primary verification.
  - Secondary verification is initiated by the PHA forwarding photocopies of the original USCIS documents required for the declared immigration status, attached to the USCIS document verification request form G-845S.

REQUIRED DOCUMENTATION

- PHA documents:
  - Declaration of Section 214 Status

CFR 5.508(b)(3)

  - Verification Consent Form

CFR 5.508(b)(3)

  - Listing of Non-Contending Family Members

CFR 5.508(e)

  - Notice of Section 214 Requirements

CFR 5.508(f)

- Eligible immigration documents [copies of originals only]

HUD Guidebook 7465.7, Restrictions on Assistance to Noncitizens, Chapter 6

TIME FRAME FOR SUBMISSION

- For applicants:

CFR 5.508(g)(1)

  - At any stage of the application process, but not later than the date the PHA verifies other eligibility factors

CFR 5.508(g)(3)

- New occupants joining a resident family:

  - At the first interim or regular reexam following the person's occupancy

CFR 5.508(h)

- A time extension may be granted in writing by the PHA, if needed, for the individual to obtain the needed documentation.

  - Extension for submission of required documents shall not exceed 30 days

CFR 5.508(g)(5)

- For each family member this is a one-time requirement. If the family moves between units or between programs and the PHA has previously obtained the required verification, the family is not required to produce the documentation again.

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FAMILIES ASSISTED *AS OF* 6-19-95

- The protections afforded these families relates to whether the PHA implemented the noncitizens rule before or after 11/29/96.[1]
- Families assisted when the noncitizen rule was implemented may have been eligible for full continued assistance.
- For more information refer to Chapter 10 of HUD Guidebook 7465.7, Restrictions on Assistance to Noncitizens, dated July 1995.

TERMINATION FOR ALLOWING INELIGIBLE INDIVIDUALS TO LIVE IN UNIT

CFR 5.514(c)(iii)

- The PHA must terminate assistance for at least 24 months to a family that knowingly permits an ineligible individual to reside on a permanent basis in the family's unit.
  - Termination does not apply to ineligible individuals already in the household where the family's assistance has been prorated.

1. On this date, a change in the rule was published and effective. Families who had been provided certain protections prior to that date were not affected, but, after that date, any other families receiving benefits would be considered under the new rule.

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SAMPLE FORMS FOR NONCITIZENS

- From HUD Guidebook 7465.7, *Restrictions on Assistance to Noncitizens*, July 1995:
  - Appendix C. Model Declaration of Section 214 Status
  - Appendix D. Model Verification Consent Form
  - Appendix E. Model Listing of Ineligible Family Members
  - Appendix F. Model Notice of Section 214 Requirements

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SAMPLE FORMS FOR NONCITIZENS

Declaration of Section 214 Status

Notice to applicants and tenants: In order to be eligible to receive the housing assistance sought, each applicant for or recipient of housing assistance must be lawfully within the U.S. Please read the Declaration statement carefully and sign and return to the Housing Authority's Admissions Office. Please feel free to consult with an immigration lawyer or other immigration expert of your choosing.

I, _____ certify, under penalty of perjury,[1] that, to the best of my knowledge, I am lawfully within the United States because (please check the appropriate box):

[ ] I am a citizen by birth, a naturalized citizen or national of the United States; or

[ ] I have eligible immigration status and I am 62 years of age or older. Attach evidence of proof of age[2]; or

[ ] I have eligible immigration status as checked below (see reverse side of this form for explanations). Attach USCIS document(s) evidencing eligible immigration status and signed verification consent form.

- [ ] Immigrant status under ¶¶1001(a)(15) or 101(a)(20) of the INA[3]; or
- [ ] Permanent residence under ¶249 of INA[4]; or
- [ ] Refugee, asylum, or conditional entry status under ¶¶207, 208 or 203 of the INA[5]; or
- [ ] Parole status under ¶¶212(d)(f) of the INA[6]; or
- [ ] Threat to life or freedom under ¶243(h) of the INA[7]; or
- [ ] Amnesty under ¶245 of the INA[8].

_____ _____

(Signature of Family Member) (Date)

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[ ] Check box on left if signature is of adult residing in the unit who is responsible for child named on statement above.

PHA: Enter USCIS/ASVS Primary Verification #: _____ Date: _____

[See reverse side for footnotes and instructions]

1 **Warning:** 18 U.S. C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any manner within the jurisdiction of any department of agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

The following footnotes pertain to noncitizens who declare eligible immigration status in one of the following categories:

2 Eligible immigration status and 62 years of age or older. For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on June 19, 1995. If you are eligible and elect to select this category, you must include a document providing evidence of proof of age. No further documentation of eligible immigration status is required.

3 Immigrant status under ¶¶101(a)(15 or 101(a)(20) of INA. A noncitizen lawfully admitted for permanent residence, as defined by ¶101(a)(20) of the Immigration and Nationality Act (INA), as an immigrant, as defined by ¶101(a)(15) of the INA (8 U.S.C. 1101(a)(20) and 1101(a)(15), respectively [*immigrant status*]. This category includes a noncitizen admitted under ¶¶210 or 210A of the INA (8 U.S.C. 1160 or 1161), [*special agricultural worker status*], who has been granted lawful temporary resident status.

4 Permanent residence under ¶249 of INA. A noncitizen who entered the U.S. before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the U.S. since the, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under ¶249 of the INA (8 U.S.C. 1259) [*amnesty granted under INA 249*].

5 Refugee, asylum, or conditional entry status under ¶¶207, 208 or 203 of INA. A noncitizen who is lawfully present in the U.S. pursuant to an admission under ¶207 of the INA (8 U.S.C. 1157) [*refugee status*]; pursuant to the granting of asylum (which has not been terminated under ¶208 of the INA (8 U.S.C. 1158) [*asylum status*]; or as a result of being granted conditional entry under ¶203(a)(7) of the INA (U.S.C. 1153(a)7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity [*conditional entry status*].

6 Parole status under ¶212(d)(5) of INA. A noncitizen who is lawfully present in the U.S. as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under ¶212(d)(5) of the INA (8 U.S.C. 1182(d)5)) [*parole status*].

7 Threat to life or freedom under ¶243(h) of INA. A noncitizen who is lawfully present in the U.S. as a result of the Attorney General's withholding deportation under ¶243(h) of the INA (8 U.S.C. 1253(h)) [*threat to life or freedom*].

8 Amnesty under ¶245A of INA. A noncitizen lawfully admitted for temporary or permanent residence under ¶245A of the INA (8 U.S.C. 1255a) [*amnesty granted under INA 245A*].

Instructions to Housing Authority: Following verification of status claimed by persons declaring eligible immigration status (other than for noncitizens age 62 or older and receiving assistance on June 19, 1995), the PHA must enter USCIS/ASVS Verification Number and date that it was obtained. A PHA signature is not required.

Instructions to Family Member For Completing Form: On opposite page, print or type first name, middle initial(s) and last name. Place an "X" or "√" in the appropriate boxes. Sign and date at bottom of page. Place an "X" or "√" in the box below the signature if the signature is by the adult residing in the unit who is responsible for child.

Section 2.7 Income Limits

INCOME LIMITS AT ADMISSION

CFR 960.201(a)(2)

- No family other than a low-income family is eligible for admission to a PHA's public housing program.

HB 7465.1, para. 3-1(c); Federal Register, Vol. 63 #190, 10/1/98

- HUD establishes income limits annually (by family size) for the area in which the PHA is located:

1937 Housing Act, Sec. 3(b); HB 7465.1, para. 3-1(a)

  - Low-income limit: 80% of area median
  - Very low-income limit: 50% of area median

CFR 5.603(b)

  - Extremely low-income limit: 30% of area median or the federal poverty level, whichever is higher

HB 7465.1, para. 3-2(a)(5)

- Annual income is compared to the eligibility income limit (80 percent of AMI) and is applied *only at admission* as a test for eligibility.

HB 7465.1, para. 3-2(a)(9) Notice PIH 2019-11

- Once admitted, a family is no longer subject to initial eligibility income limit requirements in order to retain eligibility, or for unit transfers. After admission, however, the family is subject to the over-income limit, which is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

HB 7465.1, para. 3-1(a)

- PHAs must use HUD income limits and may not establish their own.

HB 7465.1, para. 3-1(b)

- Because income limits are based on family size, a change in family composition may affect the family's income eligibility for admission.

HB 7465.1, para. 3-1(b)(2)

- There is no family minimum income restriction.

HB 7465.1, para. 3-2(a)(6)

- Transfers from other programs (other PHAs and Section 8) must be treated as new admissions.

HUD'S INCOME LIMITS:

- www.huduser.gov/portal/datasets/il.html

INCOME LIMIT RESTRICTIONS

HB 7465.1, para. 3-1(b)

- Applicants are subject to the income limits of the area where the project is located and the family is initially assisted.

CFR 903.7(c)(2)
CFR 960.204(a)(2)(i)

- The PHA may establish criteria for selection of residents designed to produce a mix of incomes in the PHA's public housing developments.

CFR 960.201(c)

- PHAs must comply with HUD-prescribed reporting requirements necessary to monitor compliance with income eligibility restrictions.

HB 7465.1, para. 3-1(a)(2)

- HUD may establish higher or lower income limits based on prevailing construction costs or unusually high or low family incomes in the area.

INCOME TARGETING

HABC ACOP, Section 5.12

- HABC will ensure that at least 75% of the families admitted into public housing from the waiting list have incomes that do not exceed 50% of the area median income as established in Baltimore City.

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Section 2.8 Occupancy Standards

DEFINITION

- Occupancy standards are criteria established by the PHA for determining the appropriate type of public housing project, and size and type of unit, needed for families of different sizes and compositions.

TYPES OF PROJECTS/DEVELOPMENTS

MIXED POPULATION DEVELOPMENTS

CFR 960.102

- A mixed population development is a public housing development, or portion of a development, that:
  - Was reserved for elderly families and disabled families at its inception (and has retained that character), or
  - If it was not so reserved at inception, the PHA has since obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly and disabled families.
- Formerly referred to as "elderly-designated projects"

CFR 960.407(a) & HB 7465.1, para. 5-2(b)(1)

- PHAs must give elderly and disabled families equal preference in admission to mixed population developments.
- PHAs may not establish a limit on the number of elderly or disabled families to be accepted for occupancy in a mixed population development.

HB 7465.1, para. 5-2(b)(2)

- PHAs may not set a minimum age (like 50 or 55) for the admission of persons with disabilities to mixed population developments.

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HABC ACOP, Section 5.7

- A mixed population development is one that is occupied by families whose head, spouse, or sole member is at least 62 years of age, and by families whose head, co-head, spouse, or sole member is a non-elderly person with a disability.
- No limit will be established on the number of elderly families or non-elderly persons with disabilities who may occupy a mixed population development. All other HABC preferences will be applied.
- Per HUD regulations, equal preference will be given to elderly families and non-elderly persons with disabilities.
- Applicants who are referred to a development converted under the Rental Assistance Demonstration (RAD) may be screened by that development in accordance with the RAD Long Term Affordable (LTA) Criteria.

General Occupancy Developments

- Referred to as Family developments
  - Includes elderly, disabled, and families
- PHAs may not give a preference to one protected class over another for general occupancy developments
  - Example: No elderly preference over families with children

Designated Elderly Developments

- Developments which include only families whose head or spouse is 62 or older
- HUD must approve application
- HABC's ACOP refers to these developments as elderly only developments

DESIGNATED DISABLED DEVELOPMENTS

- Developments which include only families whose head or spouse is disabled
- HUD must approve application
- HABC does not have designated disabled developments

TYPE OF UNIT NEEDED

CFR 960.407

- In selecting elderly families and disabled families to occupy units in mixed population developments, the PHA must first offer units with special accessibility features for persons with disabilities to families who require the accessibility features of such units.

HB 7465.1, para. 5-2(a)

- PHAs must make every reasonable effort to provide units which are specially designed for accessibility to families with members who have disabilities that require such units.

HB 7465.1, para. 5-2(c)

- Accessible or barrier-free units are specially designed units which may have ramps, grab bars, lower counters, or special facilities for those persons with mobility problems or sight or hearing impairments.

HB 7465.1, para. 5-2(c)

- Many people with disabilities do not require a specially-designed unit.

HB 7465.1, para. 5-2(c)

- Some families that do not meet the HUD household definition of disabled may need a specially-designed unit for one of their family members.

HB 7465.1, para. 5-2(c)

- If a unit can be adapted to either disability-accessible or more general usage, the PHA can decide whether to target it for applicants with disabilities or treat it like any other unit.

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- If an applicant needs accessibility features and no suitable units are available, PHA should consider modifying unit unless this would impose an undue financial or administrative burden.

HABC ACOP, Section 5.10

- HABC has units designed for persons with mobility impairments, referred to as UFAS Accessible Units.
- Where a family needs a 2 or more BR units on one level without steps, the only available units which meet this qualification are UFAS Accessible Units. As such, families who are verified to need such a unit, may be offered a UFAS Accessible Unit.
- Applicants in which no household member has a mobility impairment will not be offered these units until all residents and applicants who are eligible for the size of the available UFAS Accessible unit and who have a household member who has a mobility impairment have been considered.
- Before offering a vacant UFAS Accessible unit to an applicant in which no household member has a mobility impairment, HABC will offer such units:
  - First, to a current resident at that HABC development who was approved by HABC to transfer to a UFAS Accessible unit and who is on HABC's reasonable accommodation transfer waiting list because the resident or a household member has a disability that requires the special features of the vacant unit.
  - Second, to a current resident at another HABC development who was approved by HABC to transfer to a UFAS Accessible unit and who is on HABC's reasonable accommodation transfer waiting list because the resident or a household member has a disability that requires the special features of the vacant unit.

- Third, to an eligible qualified applicant on HABC's public housing waiting list who has a disability that requires the special features of the vacant unit or who has a household member who has a disability that requires the features of the unit.

- When offering a UFAS Accessible unit to an applicant in which no household member has a mobility impairment, HABC will require the household to agree to move to an available non-UFAS/non-accessible unit within 30 calendar days when either a current resident or an applicant needs the features of the unit and there is another unit available for the household in which no household member has a mobility disability. This requirement will be a provision of the lease agreement.

SIZE OF UNIT NEEDED

HB 7465-1, para. 5-1(a)(1)

- HUD does not specify the number of persons who may live in various sizes of units.

HB 7465.1, para. 5-1(a)(2)

- PHA must establish occupancy standards which assist as many families as possible without overcrowding the units or project, as well as make every reasonable effort to minimize vacancies.

HB 7465.1, para. 5-1(a)(3)

- These standards must comply with any requirements of state or local law.

HB 7465.1, para. 5-1(a)(5)

- PHAs may have different standards for certain projects if this would not cause or perpetuate patterns of occupancy which would be inconsistent with Title VI of the Civil Rights Act of 1964 or the Fair Housing Act.

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HABC Occupancy Guidelines

HABC ACOP Section 6.2

- HABC does not determine who shares a bedroom, but there must be at least one person per bedroom.
- HABC's Occupancy Guideline standards for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.
- HABC uses the general guidelines for determining the unit size below in conjunction with the Parameters for Determination of Unit Size.
- Table of General Guidelines for Determining Unit Size

Bedroom Size	Persons in Household: (Minimum #)	Persons in Household: (Maximum #)
0 Bedroom	1	2
1 Bedroom	1	2
2 Bedroom	2	4
3 Bedroom	3	6
4 Bedroom	4	8
5 Bedroom	6	10
6 Bedroom	8	12

- Generally, HABC will assign a unit within the following guidelines:
  - Single person families shall be allocated a zero or one bedroom.
  - The Head of Household will not be required to share a bedroom with anyone other than the co-head of household, spouse, or partner.
  - A same or opposite sex couple who is married, has an interdependent relationship, or domestic partnership will be allocated a zero or one bedroom.
  - Household members of the same sex will be required to share a bedroom.

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- Children of the opposite sex will not be required to share a bedroom.
- Foster children, appropriately documented, will be included in determining unit size only if they will be in the unit for more than 180 calendar days per year.
- Live-in aides will be provided a separate bedroom. If a live-in aide waives their right to have a separate bedroom, HABC will require the live-in aide to certify that they have waived this right.
- Space may be provided for a student who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member who will be absent for more than 180 cumulative calendar days in a twelve-month period, except for family members who have been called to active duty. In the case where a family member has been called to active duty, the family composition will remain unchanged even if the family member is absent from the unit for more than six months. After one-year, HABC may reevaluate the situation and may take action to transfer the family to another unit based on the family's composition.

EXCEPTIONS TO OCCUPANCY GUIDELINES

HABC ACOP, Section 6.4

- HABC may grant exceptions from the guidelines at the family's request or if HABC determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances and whether there is a vacant unit available.
- The Chief Operating Officer or his/her designee are authorized to approve exceptions to occupancy standards.

- If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:
  - In all cases, where the family requests an exception to the general occupancy standards, HABC will evaluate the relationship and ages of all family members and the overall size of the unit.
  - At the applicant's request or at the discretion of HABC, a family may be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines if in doing so, the family has an opportunity to be housed earlier, except where such placement conflicts with HABC's requirements under the section “Parameters for Determination of Unit Size.” If placed in a smaller sized unit, the family must agree not to request a transfer until the family composition changes or the family has occupied the unit for at least two years.
  - The family may request placement on a larger bedroom size waiting list than indicated by HABC's occupancy guidelines. The request must explain the need or justification for a larger bedroom size and will be verified by HABC before the family is placed on the larger bedroom size list.
    - HABC will not assign a larger bedroom size due to additions of family members other than by birth, adoption, marriage, or court-awarded custody. An exception will be granted if the family has submitted an “Appointment of Temporary Guardian” to HABC. If this form has been submitted, HABC will also require that the family have initiated legal proceedings for guardianship or legal custody.

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- HABC will consider the following requests for a larger bedroom size:
  - Person with Disability - HABC will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified by a healthcare provider familiar with the disability and who can explain how a larger unit will address the disability.
  - To avoid vacancies, HABC may provide a family with a larger unit than the occupancy standards permit subject to the approval of the Chief Operating Officer or his/her designee.

- Children specified in joint custody agreements will be considered family members if the agreement specifies that they live with the parent for 50% or more of the time (at least 183 days a year). HABC will require verification of the custody agreement which may include school records and or court orders. When more than one applicant or client family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, HABC will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes. For purposes of determining unit size, HABC will follow the occupancy guidelines found in Chapter 6 of the ACOP; however, an exception for an extra bedroom may be made for a child in a shared physical custody arrangement. In any shared physical custody arrangement, children may only be listed as a family member in one household.

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PROCESSING EXCEPTIONS

HABC ACOP, Section 6.5

- All requests for exceptions to the occupancy guidelines must be submitted in writing.
- In the case of a request for exception, as a reasonable accommodation, HABC will ask the tenant to make the request in writing using a reasonable accommodation request form. However, HABC will consider the exception request any time the tenant indicates that an accommodation is needed whether a formal written request is submitted or not.
- Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation.
- Requests based on health-related reasons must be verified by a knowledgeable professional source.
- HABC will promptly notify the family, in writing, of its decision.

Section 2.9 Evaluating Final Eligibility

FULL APPLICATION STAGE

- When family is close to top of waiting list (close to unit offer), the PHA conducts an in-depth interview with the family in order to determine if they are eligible for admission to public housing.

HABC ACOP, Section 4.8

- The full application for housing will be completed during the eligibility interview. Applicants will be required to furnish complete and accurate information as requested by the interviewer during the interview.

- HABC will obtain the information necessary to process and screen applicants for eligibility and suitability.

CFR 960.202(a)

- PHA verifies and/or documents:
  - Type of family
  - Income/assets of all family members
  - Appropriate allowances and/or deductions

CFR 960.206(a)

  - Local preference claims
  - Documentation required by local PHA policy

CFR 5.216

  - Social Security numbers for all household members except noncontending persons

CFR 5.512

  - Citizenship or immigration status of all family members

CFR 960.203(c)

- In addition, the PHA must determine if the family is "suitable" in accordance with its tenant selection criteria.

APPLICATION INQUIRIES

CFR 100.202(c)

- PHA may make inquiries to determine applicant's eligibility, level of benefits, and suitability for tenancy provided such inquiries are made of all applicants whether or not they appear to be persons with disabilities.
- This includes:
  - Inquiring whether an applicant is a current illegal abuser or addict of a controlled substance or is currently engaging in the illegal use of drugs.

CFR 100.202(c)

  - Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.
- The household is not eligible for a unit offer until a final eligibility determination has been made and an appropriate vacant unit is available.

APPLICANT INTERVIEWS

HABC ACOP, Section 4.6

- HABC may conduct screening via in-person interviews or online.
- HABC will verify applicant information, conduct eligibility and suitability screening, and then make a decision about the applicant's eligibility for assistance.
- Applicants will be sent an eligibility screening letter when they reach the top of the waiting list. The letter will include an interview date or instructions on how to conduct on-line screening and will include the documents the applicant is required to provide and the factors to be verified.
- Where an interview is conducted, all adult household members are required to attend. If a family misses two scheduled interviews, without good cause, HABC will withdraw the family from the waiting list.

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- If an elderly or disabled family misses the second scheduled interview, HABC will attempt to contact the head of household by phone and schedule a third interview. If HABC is still unable to reach the applicant, HABC will withdraw the family from the waiting list.
- Where on-line screening is conducted, if a family misses two completion deadlines, without good cause, HABC will withdraw the family from the waiting list.
- If a family is withdrawn from the waiting list and then responds to HABC within 90 calendar days from the date of withdrawal, HABC will reinstate the family to the waiting list.
- Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices or to have the interview conducted at a location other than HABC's offices. A designee will be allowed to provide information on behalf of the applicant, but only with permission of the person with a disability.
- If an application is withdrawn due to failure to complete the required screening process, the applicant will be notified in writing that the application has been withdrawn from the waiting list and that they may re-apply for housing assistance if the waiting list is open. The applicant will also be offered an opportunity to request an informal hearing.
- Information provided by the applicant will be verified, including information related to preferences, family composition, income, allowances and deductions, assets, eligible immigration status, full-time student status, and other factors related to eligibility and rent calculation.

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- If HABC determines, at or after the screening interview or online screening, that additional information or document(s) are needed, HABC will request the document(s) or information in writing. The applicant will be given 5 working days to supply the information. If the information is not supplied in this time, HABC will provide the applicant a notification of denial for assistance. The applicant will also be offered an opportunity to request an informal hearing.

HABC ACOP, Section 4.9

- Upon completion of the application interview, the following items will be verified to determine eligibility for admission to HABC's housing:
  - Local preference
  - Legal identity
  - Family composition and type (elderly/nonelderly person with a disability/family)
  - Annual income (including assets and asset income)
  - Deductions from annual income
  - Social Security numbers for all family members
  - Information used in applicant screening
  - Citizenship or eligible immigration status
  - Criminal history report
  - Credit history
  - Prior debt to a federally and/or state assisted housing program
  - Prior tenancy in federally assisted housing
  - Landlord references

LEGAL IDENTITY—PHOTO ID

HABC ACOP, Section 4.12.1

- To ensure HABC is able to identify all persons 18 years of age or older (not just the head of household), all adult household members will be required to provide a current, government issued identification at admission, upon addition to the household or upon turning 18.
- For example, if a household member turns 18 between regular reexaminations, he or she must provide a government issued photo identification at the household's next regular reexamination.
- Includes driver's license, state issued ID, student ID, etc.
- HABC reserves the right to request an updated photo ID after admission to the program to confirm legal identity.
- As an accommodation for individuals with disabilities and elderly individuals, as well as for individuals with religious considerations, with prior HABC approval, HABC may accept other forms of identification to establish identity.

VERIFICATION OF AGE

HABC ACOP, Section 4.12.2

- To ensure that HABC can verify the age of all household members, HABC will require documentation to verify the age of each household member.

HABC SCOP, Section 7.15

- If an official record of birth or evidence of Social Security retirement benefits cannot be provided, HABC or the privately owned/managed site will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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Legal Capacity of the Head of Household

HABC ACOP, Section 4.12.4

- The head of household must have the legal capacity to enter into a lease under state and local law.
- HABC does not permit a parent or legal guardian to co-sign the lease on the applicant's behalf if the head of household is under 18 and, under State/local law, does not have the legal capacity to enter a legally binding contract.
- A minor who is emancipated under state law may be designated the head of household.

Tenant Readiness Training

HABC ACOP, Section 4.22

- The admissions process will include a pre- and/or post-occupancy Tenant Readiness Training.
- HABC will try to assess an applicant's readiness for housing prior to admission.
- However, in certain circumstances HABC may require the applicant/resident to attend training after admission. These cases include but are not limited to:
  - When the applicant must be housed precipitously due to an emergency (as defined by the policies in the Tenant Selection and Assignment chapter of this ACOP); or
  - As a reasonable accommodation.
- Notwithstanding the foregoing, an applicant's failure to complete the Tenant Readiness Training may result in denial of admission or termination of tenancy.

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SUITABILITY

- The PHA should fairly and objectively determine whether the family will be a suitable tenant.

STANDARDS FOR PERSONS JOINING A RESIDENT FAMILY

- The same standards of tenant suitability used for applicants should be used for a person or persons joining a family already in occupancy.
- The PHA should determine that the person meets its standards prior to adding that person's name to the family's lease.

CFR 960.203(a)

PROHIBITED SELECTION CRITERIA

- Tenant selection criteria and information to be considered must be reasonably related to individual attributes and behavior of an applicant.
  - NOT related to those which may be imputed to a particular group or category of persons of which an applicant may be a member.
- Admission to the program must never be based on: (Note: Regulatory for HCV; safe harbor for PH)
  - The presence of family members that include the following:
    - Unwed parents
    - Recipients of public assistance
    - Children born out of wedlock
  - The family's decision to participate in a Family Self-Sufficiency (FSS) program

- Admission must never be based upon the following protected classes:
  - Age, race, color, religion, sex or national origin
  - Families with children (familial status)
  - Persons with disabilities

HB 7465.1, para. 3-2(b)

- PHAs may not require that:
  - Applicants have a minimum income
  - Applicants work
  - Eligible families apply for welfare or other benefit programs

HABC Requirements

HABC ACOP, Section 4.13

- Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.
- All applicants must demonstrate, through an assessment of current and past behavior, the ability to:
  - Pay rent and other charges as required by the lease in a timely manner.
  - Care for and avoid damaging the unit and common areas.
  - Use facilities, appliances, and equipment in a reasonable way.
  - Create no health or safety hazards.
  - Report maintenance needs in a timely manner.
  - Not interfere with the rights and peaceful enjoyment of others.
  - Avoid damaging the property of others.
  - Not engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff.

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- Not engage in drug-related criminal activity on or off the HABC premises.
- Not have ever been convicted of manufacturing or producing methamphetamine, also known as "speed," on the premises of federally assisted housing.
- Not contain a household member subject to lifetime sex offender registration requirement under a state sex offender registration program.
- Comply with necessary and reasonable rules and program requirements of HUD and HABC; and
- Comply with local health and safety codes.

- All screening procedures shall be administered fairly and in such a way as not to discriminate on the basis of race, color, sex, religion, national origin, ancestry, age, familial status, marital status, disability, sexual orientation, or gender identity, and not to violate a right to privacy.

- In the absence of satisfactory landlord documentation, applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease. If the applicant is a person with a disability, he or she must be able to demonstrate the ability and willingness to comply with the terms of the lease with or without a reasonable accommodation.

- HABC may rely upon sources of information which may include, but are not limited to, HABC records, personal interviews with the applicant or resident, interviews with previous landlords, employers, social workers, parole officers, criminal and court records, clinics, physicians, the police department, and home visits for persons who have had negative landlord reference(s) for poor housekeeping habits.

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- Factors to be considered in the screening are housekeeping habits, rent paying habits, prior history as a resident, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety, or welfare of other residents, or the physical environment, or the financial stability of the project.

- HABC's examination of relevant information pertaining to past and current habits or practices may include, but is not limited to, an assessment of:

  - A credit history checks to determine if there is unreported income and/or assets, i.e., if an applicant claimed zero income and routinely pays $500 toward a credit card, HABC would question the source of the funds to pay on the credit card.
  - The applicant's past performance in meeting financial obligations, especially payment of rent and utilities, which may include a credit history check.
  - Eviction, a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, and past or present housekeeping habits that may adversely affect the health, safety, or welfare of other residents or neighbors.
  - Any history or evidence of repeated acts of violence on the part of any applicant family member, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.

- Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other residents.

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RENT PAYING HABITS

HABC ACOP, Section 4.23.1

- HABC may examine any records from a prior tenancy and may request written references from the applicant's current landlord and may request written references from former landlords up to the past three years to determine if the applicant was chronically late with rent payments, was evicted at any time during the past three years for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances may be grounds for an ineligibility determination. HABC will consider the following factors during an informal review, if requested by the applicant:
  - Amount of former rent.
  - Loss of employment.
  - Death or divorce from primary support.
  - Illness or other circumstances beyond applicant's control.
- Applicants will not be considered to have a poor credit history if they were late paying rent because they were withholding rent due to substandard housing conditions in a manner consistent with applicable laws; or had a poor rent paying history clearly related to an excessive rent relative to their income (using 50% of their gross income as a guide), and responsible efforts were made by the applicant to resolve the nonpayment problem.

CRIMINAL BACKGROUND CHECKS

HABC ACOP, Section 4.18

- HABC will check criminal history for all members of the applicant's household who are 14 years of age and older to determine whether any such member has engaged in drug-related, violent, or other criminal activity. Denials, related to criminal activity, are limited to crimes that are not excluded under any HUD regulations or rules.

- Verification of any past criminal activity will be done prior to final eligibility and will include a review of conviction records.
- HABC will deny eligibility for admission for a period of 18 months for a misdemeanor conviction and for a period of three years for a felony conviction beginning on the date of conviction or the release from incarceration, whichever is later.
- If the criminal record check identifies a pending criminal investigation or charge, HABC will suspend an eligibility determination. HABC will inform the applicant that he/she may request reactivation of the application within 90 calendar days of the final disposition of the case, provided the disposition is not a conviction. If reactivation of the application is not requested within 90 calendar days, the applicant will be withdrawn.

Opportunity to Dispute Accuracy or Relevance of Criminal Records

24 CFR. 5.903(a), 5.905(d), 960.204(c)

- If a PHA obtains criminal records and/or sex offender information showing that an adult household member was involved in a crime that constitutes grounds for denial in public housing, the PHA must notify the household of the proposed action to be based on the information. The PHA must provide the subject of the record and the applicant a copy of such information, with the opportunity to dispute the accuracy and relevance of the criminal records before notice of denial is issued.
- Some states prohibit copying criminal records; in this case, the PHA would give the subject of record and applicant the right to view these records.

HABC ACOP, Section 4.18

- HABC has the authority to deny an applicant based on the results of the criminal background check.

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- If HABC denies admission based on the criminal background check and the applicant disagrees with the results of the criminal background check, the applicant may present documentation that the criminal background check results are incorrect.
- If HABC denies assistance based on criminal record information, HABC will notify the applicant of the denial and will make the record available upon request to the applicant.
- The applicant will have an opportunity to dispute the accuracy and relevance of the information through the informal review process.

APPLICATION OF FAIR HOUSING ACT STANDARDS TO THE USE OF CRIMINAL RECORDS

OGC Guidance 4/4/16

- On April 4, 2016, HUD's Office of General Counsel (OGC) issued a 10-page guidance document addressing how the Fair Housing Act applies to the use of criminal history by PHAs.
- Specifically, this guidance addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a PHA justifies an "adverse housing action" -such as denial of admission-based on an individual's criminal history. HUD OGC states that since disproportionate incarceration rates exist for African Americans and Hispanics (creating a disparate impact), the FHA applies to criminal convictions.
  - This is one of many consequences of the U.S. Supreme Court's "disparate impact" decision from 2015 in Texas Department of Housing and Community Affairs v. Inclusive Communities Project Inc.

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- While the guidance underscores HUD's deemphasis in the use of criminal histories in housing decisions, it does NOT forbid the consideration of such information. PHAs must, however, scrutinize their existing policies to distinguish between "criminal conduct that indicates a demonstrable risk or threat to resident safety and/or property and criminal conduct that does not."

HABC ACOP, Section 4.18

- HABC will not base a determination that an applicant or household engaged in criminal activity warranting denial of admission, termination of assistance, or eviction on a record of arrest(s).

Denial of Admission

- In considering the elements discussed below, the PHA's focus should *not* be on whether the applicant or tenant happens to have a disability.

Screening for Drug Abuse and Other Criminal Activity

- HUD provides PHAs with tools to adopt and implement fair, effective and comprehensive policies for screening out applicants who engage in illegal drug use or other criminal activity.
- HUD clarifies the distinction between denial actions that are mandated and those that are permitted for PHAs.

REQUIRED DENIAL OF ADMISSION

CFR 960.204(a)

- PHA denial is *required* for the following persons:

CFR 960.204(a)(1)

1. Persons evicted for drug-related criminal activity

- PHA standards must prohibit admission of an applicant to public housing for three years from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

- HABC ACOP, Section 4.19.1
- HABC will deny assistance if any household member was evicted from public housing, Indian housing, or any Section 8 program because of drug-related or other criminal activity, for a three-year period beginning on the date of eviction.
- For purposes of the ACOP, the term eviction shall include any household member leaving the unit because of a pending eviction, pending termination from the federally assisted program or other pending adverse action due to alleged criminal activity or due to a pending lease enforcement action.

CFR 960.204(a)(2)

2. Persons currently engaged in the illegal use of a drug

- The PHA must establish standards that prohibit admission of a family to the PHA's public housing program if:
  - The PHA determines that any household member is currently engaging in illegal use of a drug; or
  - The PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

HABC ACOP, Section 4.15

- "Currently engaging in or engaged in drug-related criminal activity" includes but is not limited to:
  - Evidence that the individual has, within the past three years, engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.
  - Evidence of a history or pattern of illegal substance abuse that the individual has, within the past three years, engaged in to justify a reasonable belief that the individual's behavior is current.

CFR 960.204(a)(3)

3. Persons convicted of methamphetamine production

- The PHA must establish standards that permanently prohibit admission to public housing if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

CFR 960.204(a)(4)

4. Persons subject to lifetime sex offender registration requirement

- The PHA must establish standards that prohibit admission to public housing if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

HUD FAQs on Notice PIH 2012-28

  - PHAs may only create policies that permanently deny admission to sex offenders subject to lifetime registration requirements as per the regulatory requirements, and may not implement policies that automatically deny admission to applicants for the duration of their sex offender registration requirement, regardless of circumstances, if it is less than life.

HABC ACOP, Section 4.19.1

- A member of the household who is subject to any registration requirement under a State sex offender registration program, so that the period of ineligibility will be the same as the period required for registration.

- In the screening of applicants, the PHA must perform necessary criminal history background checks in the state where the housing is located and in other states where household members are known to have resided.
  - Notice PIH 2012-28 specifies how this requirement can be fulfilled. Which ever method the PHA chooses must be included in its admissions and continued occupancy policy.

Notice PIH 2012-28

- Should the process reveal an applicant's household includes an individual subject to a state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove that individual from the household.
- In such instances, HABC policy states the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

CFR 960.204(b)

5. Persons that abuse or show a pattern of abuse of alcohol

- The PHA must establish standards that prohibit admission to public housing if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.
- Remember: Simple abuse of alcohol is not grounds for denial of admission or eviction.

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STANDARDS FOR PHA TENANT SELECTION CRITERIA

- HUD does not impair the authority of the PHA to deny admission for criminal activity other than that specified in the regulations or which has taken place at times other than those specified.
  - However, the PHA must be vigilant that policies do not violate civil rights.

HABC ACOP Section 4.15

- "Currently engaging in or engaged in violent or other criminal activity" includes but is not limited to:
  - Evidence that the individual has, within the past three years, engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.
  - Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.
  - Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other residents.

HB 7465.1, para. 4-1(a)(3)

- The PHA may also deny admission to applicants who currently owe rent or other amounts to the PHA in connection with public housing or Section 8 programs.

HABC ACOP Section 4.17

- HABC will conduct a debt screening on all members 18 years old or older.
- Previous outstanding debts to HABC or any public housing authority resulting from a previous tenancy in the public housing or participation in the HCVP must be paid in full prior to admission.
- No payment agreement will be accepted.

- The applicant will be rejected unless the applicant pays the debt in full within 60 calendar days from the date HABC notifies the applicant of the debt unless HABC determines that mitigating circumstances exist, or the debt cannot be collected under law.
  - Debts discharged in bankruptcy may not be collected.
  - Debts may not be collected under Maryland state law three years after the debt was incurred.
  - If the debt was incurred in another state, a determination as to whether the debt may be collected shall be made in consultation with HABC's Office of Legal Affairs.
- Each person who has signed the lease is responsible for the entire debt incurred as a previous HABC resident; however, remaining family members listed on the lease who did not sign the lease, such as children of the head of household or spouse, will not be held responsible for the parent's unpaid debt.

HABC ACOP Section 4.17.1

- HABC may deny assistance to an applicant:
  - If the applicant family has current debt to HABC or another PHA or a judgment against them in connection with participation in the HCVP or public housing assistance programs under the 1937 Act for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owed by the applicant family under the lease and the amount is not fully repaid within 60 calendar days from the date HABC notifies the applicant of the debt; and/or
  - If the applicant family has breached a repayment agreement, with HABC or another PHA, entered in connection with participation in the HCVP or public housing assistance programs under the 1937 Act, and the amount is not fully repaid within 60 calendar days from the date of the screening appointment.

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MITIGATING FACTORS

CFR 960.203(d)

- For denials that are not required by HUD, in the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to:
  - The time, nature and extent of the applicant's conduct including the seriousness of the offense.
  - In a manner consistent with the PHA's policies, procedures and practices of this section, consideration may be given to factors which might indicate a reasonable probability of favorable future conduct, for example:
    - Evidence of rehabilitation; and
    - Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs.

HABC ACOP, Section 4.19.2

- Review and approval by the Admissions and Leasing Manager is required when admission is based on mitigating factors.
- HABC may consider the following as mitigating factors to reverse denial of assistance related to criminal background screening during the information review process:
  - The seriousness of the case, especially with respect to how it would affect other residents.
  - The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
  - The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, or stalking.

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- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future.
- Evidence of the family's participation in, or willingness to participate in, social service or other appropriate counseling service programs.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. HABC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- Evidence of work history or history of community volunteer work.
- Satisfactory completion of probation.
- Removal of the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.
- The circumstances that led to eviction no longer exist, i.e., the criminal household member has died or is imprisoned.

DOCUMENTING FINDINGS RELATED TO SCREENING

HABC ACOP, Section 4.26

- An authorized representative of HABC will document any pertinent information received relative to the following:
  - Criminal Activity – includes the activities identified in the criminal background check.

- Pattern of Violent Behavior – includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.
- Pattern of Drug Use – includes a determination by HABC that the applicant has exhibited a pattern of illegal use of a controlled substance, which might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Drug-Related Criminal Activity – includes a determination by HABC that the applicant has been involved in the illegal manufacture, sale, distribution, or use of an illegal drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the illegal drug.
- Pattern of Alcohol Abuse – includes a determination by HABC that the applicant's pattern of alcohol abuse might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Initiating Threats – includes a determination by HABC that the applicant has a history of behaving in a manner indicating intent to assault employees or other residents.
- Abandonment of a Public Housing Unit – is a determination by HABC that the applicant left a PHA unit without advising PHA management staff so that staff could secure the unit and protect the property from vandalism.
- Non-Payment of Rightful Obligations – a determination by HABC that the applicant owes rent, utilities and/or other charges to HABC or any other public housing authority.
- Intentionally Falsifying an Application for Leasing – a determination by HABC that the applicant provided false information about family income OR size, used an alias on the application for housing, or made any other materially false statement or omission intended to mislead.

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- Grossly Unsanitary or Hazardous Housekeeping - a determination by HABC that the applicant created a fire hazard through acts such as hoarding rags, papers, or any other materials; severely damaged the premises and equipment; caused infestation; caused foul odors, deposited garbage in halls; or seriously neglected the premises. This category does not include a determination that the housekeeping is found to be superficially unclean or lacking in orderliness, where such conditions do not create a problem for neighbors.
- Destruction of Property – a determination by HABC that the applicant destroyed property in previous rentals.

PHA Access to Criminal Records and Information

- Although the regulations provide a mechanism for obtaining access to criminal records, HUD recognizes that many PHAs use other means of obtaining that information.
- HUD regulations do not affect those other means.
  - HUD cautions PHAs to handle any information obtained about criminal records in accordance with applicable state and federal privacy laws and with the provisions of the consent forms signed by applicants.

CFR 5.903

- HUD regulations authorize PHAs to obtain criminal records from a law enforcement agency to screen applicants for admission to public housing.
  - *Law enforcement agency* is defined as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.
- Other definitions relating to access of records:
  - *Adult* is a person who is 18 years of age or older or who has been convicted of a crime as an adult under any federal, state, or tribal law.

- *Responsible entity* means a PHA administering a public housing program under an annual contributions contract with HUD.

- To obtain records under the authority of 24 CFR 5.903, PHAs must require that every applicant family submit a consent form and that the form be signed by each adult household member.

- Following a PHA request, a law enforcement agency:
  - Must send promptly to the PHA a certified copy of any criminal conviction records concerning the household member that the law enforcement agency has possession of or control over
  - May charge the PHA a reasonable fee for releasing the criminal conviction records

CFR 960.204(d)

- A PHA may not pass along to an applicant the costs of a criminal records check.

Permitted Use and Disclosure

CFR 5.903(e)

- PHAs are permitted to use criminal records obtained under the authority of 24 CFR 5.903 only for:
  - Applicant screening
  - Lease enforcement and eviction of public housing residents
- A PHA may disclose the criminal records that it receives from a law enforcement agency under the authority of 24 CFR 5.903 only to:
  - Officers or employees of the PHA
  - Authorized representatives of the PHA with a job-related need to access the information (for example, a PHA hearing officer conducting an administrative grievance hearing concerning a proposed eviction)

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- If disclosure of criminal records obtained under the authority of 24 CFR 5.903 is necessary in connection with judicial proceedings, a PHA is not responsible for controlling access to or knowledge of the records after the disclosure.

Opportunity to Dispute

CFR 5.903(f), CFR 960.204(c)

- If a PHA's decision to deny admission to an applicant, enforce a lease, or evict a tenant is based on criminal record information, the PHA must notify the household of the proposed action and:
  - Supply the subject of the record and the applicant or tenant with a copy of the information
  - Provide the opportunity for the subject and the applicant or tenant to dispute the accuracy and relevance of the information before the denial or eviction action

HABC ACOP, Section 4.21

- When HABC takes any adverse action based on a criminal conviction record, the applicant and subject of record will be provided with a copy of the criminal record and an opportunity to dispute the record.
- Applicants will be provided an opportunity to dispute the record at an informal hearing.

HABC ACOP, Section 4.24

- If HABC uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record will precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HABC moves to deny the application. In addition, a copy of the record will be provided to the subject of the record.

Records Management

CFR 5.903(g)

- PHAs must have a system of records management that ensures that criminal records received from a law enforcement agency under the authority of 24 CFR 5.903 are:
  - Maintained confidentially
  - Not misused or improperly disseminated
  - Destroyed once the purpose for which the records were requested has been accomplished, including expiration of the period for filing a challenge to the PHA action or final disposition of litigation

HABC Policy, Section 4.20

- HABC will ensure that any criminal record received is: (1) maintained confidentially; (2) not misused or improperly disseminated; and (3) is destroyed once the purpose for which it was requested is accomplished.
- HABC will document in the applicant's file that the applicant was denied admission due to findings in the Criminal History Report.

Special Authority to Access Sex Offender Registration Information

CFR 5.905

- A PHA that administers public housing under an annual contributions contract (ACC) with HUD must carry out background checks necessary to determine whether applicants are subject to a state sex offender registration program.
- The background checks must be carried out in the state where the housing is located and in states where the household members are known to have resided.

Notice PIH 2012-28

  - With regard to this requirement, Notice PIH 2012-28 states explicitly that applicants for admission into HUD-assisted housing programs must provide a complete list of all states in which any household member has resided.

- Alternatively, PHAs may use a national database covering sex offender registries in all states, such as the Dru Sjodin National Sex Offender Database, in lieu of asking for a complete list of states on the application.
  - The Dru Sjodin National Sex Offender Database can be found on the Web at: http://www.nsopw.gov
- The PHA must state which of the two methods listed above it will use in its admissions and continued occupancy policy.

- The state or local agency that collects and is responsible for sex offender registration information must provide a PHA with requested information in a prompt manner.
- The state or local agency providing sex offender registration information to a PHA may charge a reasonable fee for the service.
- The same requirements for access to criminal records apply to sex offender registration information regarding:
  - Records management
  - PHA obligation to notify the household
  - PHA obligation to provide a copy of the information to the subject of the record and the applicant or tenant
  - Household opportunity to dispute the information
- The records management requirements for sex offender registration information do not apply to information that is considered public or that is obtained by a PHA other than under the authority of 24 CFR 5.905.

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ADMISSION OF APPLICANTS WITH DISABILITIES

CFR 100.204(a)

- Applicants with disabilities who do not meet PHA's criteria for suitability for tenancy must be admitted if applicant can meet PHA's criteria for suitability through "reasonable accommodations."

HUD Guidance

- Do NOT require a physical examination as a condition of admission.
- Do NOT impose conditional leases requiring persons with disabilities to participate in supportive activities.
- If applicant cannot provide customary information requested such as landlord references and credit reports, PHA should consider other sources of information:
  - Personal references
  - Institutions where applicant has lived
  - Doctors
  - Therapists and service agency personnel

HB 7465.1, para. 4-2(a)(6)

- Objectionable behavior that impacts on a disabled applicant's ability to fulfill essential lease obligations may be basis for rejection if such behavior cannot be corrected by "reasonable accommodations" even if the behavior is related to the disability. These may include:
  - Failure to pay rent
  - Disturbing neighbors
  - Destroying property
  - Living or housekeeping habits adversely affecting the health, safety, or welfare of other tenants

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NOTICE TO INELIGIBLE APPLICANTS

- If an applicant is determined ineligible, they must be provided prompt written notice of this determination.
- The notice must state:
  - The reason(s) why ineligible;
  - That the applicant may request an informal hearing.

HABC ACOP, Section 16.2.1

- HABC or the privately owned/managed site will give an applicant prompt notice of a decision denying eligibility for admission.
- The notice will contain a brief statement of the reasons for the decision and will also state that the applicant may request an informal hearing to dispute the decision.
- The notice will describe the process for requesting an informal hearing.
- Before the applicant is denied based on information obtained from criminal or sex offender registration records, the applicant must be given the opportunity to dispute the information in those records which would be the basis of the denial.
- The applicant may request an administrative review within 10 working days of being notified that HABC or the privately owned/managed site intends to deny the applicant based on criminal or sex offender records.
- Applicants who request an administrative review and whose admission is denied may still request an informal hearing in accordance with the procedures set forth in section 15.2.2 of this chapter upon being notified of the denial.

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INFORMAL HEARINGS

HB 7465.1, para. 4-4(a)(3)

- The grievance procedures for public housing tenants do not apply to PHA determinations affecting applicants.
- Applicants are entitled to an informal hearing.
- Hearings may be conducted in-person or remotely, depending on PHA policy. See Notice PIH 2020-32 for the requirements regarding conducting remote informal hearings. The purpose of the informal hearing is to:
  - Resolve applicant disputes with the PHA without legal action, and
  - Correct PHA errors.

CFR 960.208

- Families must be notified of their right to an informal hearing when the PHA determines they are ineligible for admission.
- Informal hearings should be conducted by a non-involved person.

HABC ACOP, Section 16.2.5

- Informal hearings will be conducted by an impartial hearing officer. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of that person.
- The applicant may bring to the hearing any documentation or evidence s/he wishes and the evidence along with the data compiled by HABC and/or the privately owned/managed site will be considered by the hearing officer.

CFR 960.208

- PHAs have latitude in establishing reasonable time frames for families to request an informal hearing as well as the time frame for the PHA's final determination.

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HABC ACOP, Section 16.2.2

- Applicants must submit their request for an informal hearing in writing to HABC or the privately owned/managed site within 10 working days from the date of the notification of their ineligibility.
- If the applicant requests an informal hearing, HABC or the privately owned/managed site will provide an informal hearing within 10 working days of receiving the request. HABC or the privately owned/managed site will notify the applicant of the place, date, and time of the informal hearing.

HUD Guidance

- Statements should be:
  - Carefully worded to avoid unnecessary questioning of every PHA decision, and
  - Clearly stated so that the family knows which decisions they have a right to appeal and which they do not.
- Applicants may present oral or written objections to the decision. Applicants may choose to be represented by anyone of their choice, including legal counsel, at their own expense.
- After the informal hearing is completed, the PHA should promptly notify the applicant in writing of the final decision and state the reasons for its determination.

HABC ACOP, Section 16.2.5

- Within 10 working days of the date of the hearing, the hearing officer will mail a written decision explaining the reason(s) for the decision to the applicant, his or her representative (if any), and provide a copy of the decision to HABC's Admissions and Leasing staff and, if applicable, to the privately owned/managed site to place in the applicant's file.
- All requests for an informal hearing, supporting documentation, and copy of the final decision must be retained in the family's file.

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Section 2.10 Applicant Selection Procedures

HABC ACOP Section 5.1

- Applicants will be selected from the waiting lists to form a final eligibility "pool" based on the anticipated availability of units and size and type of units expected to be available. Applicants will be placed in the appropriate eligibility pool based on the size and type of unit needed after completing the verification and screening process.
- To fill a vacancy, HABC will offer the dwelling unit to applicants at the top of the appropriate eligibility pool.

ORDER OF SELECTION

HABC ACOP, Section 5.5

- Before applying its preference system, HABC will first match the characteristics of the available unit to the applicants available on the waiting lists.
- Factors such as unit size, accessible features, or units in housing designated for the elderly or for non-elderly persons with disabilities limit the admission of families who match the characteristics and features of the vacant unit available.
- The order of selection for vacant units, which includes residents requesting/needing transfers, as well as applicants, will generally be as follows, subject to the requirements of Section 10.9 for Administrative Transfers and Section 10.12, Demolition, Disposition, Revitalization, or Rehabilitation:

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Transfer Type or Admission Preference	Applicant or Transfer
Emergency to address health, safety, and habitability issues	Transfer
Emergency VAWA	Transfer
Emergency IV/IW	Transfer
Emergency preference	Transfer
Immediate Needs	Transfer
Reasonable accommodation	Transfer
Transfers from accessible units	Transfer
Severely over-housed	Transfer
Severely under-housed	Transfer
Over/Under housed *	Transfer
Local Preference 3 *	Applicant
Local Preference 2 *	Applicant
Scattered Site Incentive**	Transfer

*For over/under housed transfers, on an annual basis, HABC will review its current occupancy goals and objectives and based on that review, establish a ratio of new admissions to transfers.

**Scattered site units are offered solely to existing Public Housing families who request and are eligible for the Scattered Site Incentive transfer preference who will be selected according to the date and time of their transfer request.

- NOTE: Where Emergency preferences are referred to HABC, the Executive Director or his/her designee shall make a written determination on the admission priority of the emergency. Such determination will be included in the file to provide a clear audit trail for selection and housing. The default admission priority for applicant emergencies will be after all emergency transfers.

- HABC does not apply additional preference points if a household qualifies for more than one of the household types in Preference #2, i.e., is employed and has disabled family members.

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- The examples below assume the households selected the same site (or were next on the CAFAWL) and qualify for the unit size.

Example #1

- Applicant A will be selected before Applicant B even though Applicant B applied before Applicant A
- Applicant A:
  - Applied on 3/5/17,
  - Lives in Baltimore City.
  - Is employed; and
  - Is 63 years of age,
  - Receives 3 preference points, two for being a Baltimore City resident and one point for qualifying for Preference 2.
- Applicant B:
  - Applied on 11/15/16.
  - Is a veteran; and
  - Does not live in Baltimore City,
  - Receives 1 preference point for the veteran's status.

Example #2

- Applicant C receives 3 preference points and will be selected before Applicant D, who receives only 1 preference point. Even though Applicant D applied over one year before Applicant C, applicants who do not live in Baltimore City/County will only be considered for assistance after the waiting list is exhausted of applicants who live in Baltimore City/County regardless of preference.
- Applicant C:
  - Applied on 10/10/15
  - Works in Baltimore City
  - Receives 2 points for working in Baltimore City/County (residency preference)
  - Receives 1 point for being employed
- Applicant D:
  - Applied on 2/5/14
  - Is employed outside of Baltimore City/County
  - Does not currently live in Baltimore City/County
  - Receives 1 preference point for being employed
- By matching unit and applicant characteristics, it is possible that applicants who are lower on the waiting list may receive an offer of housing ahead of applicants with an earlier date and time of application.
- Any admissions policies mandated by court order or directed by HUD related to desegregation or Fair Housing and Equal Opportunity will take precedence over HABC's preference system.

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ORDER OF SELECTION FOR THE 22 SCATTERED SITES THOMPSON UNITS

HABC ACOP, Section 5.5

- Under the Thompson Consent Decree, HABC created 22 public housing units in Baltimore City (Thompson 22 Units).
- HABC's Admissions and Leasing Office is responsible for screening the applicants for the Thompson 22 Units in accordance with Chapter 4 of the ACOP.
- The families found eligible to move into the Thompson 22 Units will be housed in accordance with the following preferences:
  - Current residents of HABC public housing who are in the Baltimore Regional Housing Partnership ("BRHP") case load.
- HABC's Admissions and Leasing Office is also responsible for screening families to occupy the Thompson 22 Units that meet the Uniform Federal Accessibility Standards ("UFAS") in accordance with the following preferences:
  - 1st Preference – HABC public housing residents who are on the reasonable accommodation transfer waiting list and need the features of a UFAS unit; and
  - 2nd Preference – Applicants on HABC's public housing waiting list who need the features of a UFAS unit.
- Families selected by the Admissions and Leasing Office for the Thompson 22 Units that are UFAS compliant will be referred to BRHP for pre-move counseling.

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UNIT OFFERS

HABC ACOP, Section 5.8

- The policies below cover unit offers for units covered under the CALBWL, CAFAWL, and CAMPBWL.
- Unit offers will be made to eligible applicants in the ready pool according to their ranking order.
- If an applicant has been offered a unit from one of the applicant's selected waiting lists, HABC will not refer the applicant for other vacant units until a determination is made on the open referral.
    - For example, if an applicant is referred to a unit at Primrose Place and the applicant is also on the waiting list for Heritage Crossing, the applicant will not be offered a unit at Heritage Crossing until an outcome has been determined on the unit offered at Primrose Place.

Unit Offers for Applicants on the CALBWL Only

- When an applicant selects up to three developments on the CALBWL only, the refusal of one unit offer, without good cause, will result in removal from all selected developments covered by the CALBWL.
- The applicant must reapply when and if the waiting list is open.

Unit Offers for Applicants on the CALBWL and CAMPBWL

- If an applicant selects the CAMPBWL and one or two developments covered by the CALBWL, the applicant will have a total of three refusals of unit offers, without good cause, before being removed from all centrally managed waiting lists. For example, assuming refusals are without good cause:
  - If an applicant selects Heritage Crossing, Gilmor Homes, and the CAMPBWL and the applicant refuses an offer at Heritage Crossing, the applicant will be removed from the Heritage Crossing waiting list and will have two more-unit refusals before being removed from the Gilmor Homes and the CAMPBWL.
  - If the applicant is next offered a unit from the CAMPBWL and refuses the offer, the applicant will remain on both the CAMPBWL and Gilmor waiting lists.
  - If the applicant is next offered a unit from either the CAMPBWL or Gilmor waiting list and refuses the offer, the applicant will be removed from the CAMPBWL and Gilmor waiting lists. The applicant will no longer be listed on any waiting lists and must reapply.

Unit Offers for Applicants on the CAMPBWL Only

- Applicants who have selected the CAMPBWL only will not be able to choose a specific development covered under the CAMPBWL.
- HABC will provide up to three (3) offers of dwelling units for applicants who have the CAMPBWL as their waiting list option.
- If an applicant refuses three unit offers without good cause, the applicant will be removed from the CAMPBWL and must reapply.

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Unit Offers for Applicants on the CAFAWL

- Applicants who have selected the CAFAWL only will be included on all development/unit waiting lists for which they are eligible.
- Applicants who choose the CAFAWL will not be able to choose a specific development covered under the CAFAWL.
- HABC will provide one unit offer to an applicant who has chosen the CAFAWL as their waiting list option.
- If an applicant refuses the unit offer, without good cause, the applicant will be removed from the CAFAWL and must reapply.

Unit Offers for Scattered Site Units

- Scattered site units are offered solely to families eligible for the Scattered Site Incentive transfer preference who are on the Scattered Site Incentive Transfer waiting list according to the date and time of application and applicability of the size of the unit.

CHANGES PRIOR TO UNIT OFFER

HABC ACOP, Section 5.14

- Changes in an applicant's status, including, but not limited to, changes in family composition and/or income that occurs between the time of eligibility determination and unit offer may affect the family's eligibility or Total Tenant Payment. The family will be notified in writing of changes in the family's eligibility or level of benefits and informed of the family's right to an informal hearing when applicable.

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- HABC will verify and process changes in family composition and/or income which occur between the time of eligibility determination and unit offer. HABC will not lease a unit to a family whose occupancy will overcrowd or underutilize the unit or whose change in income results in income ineligibility.
- If changes in the family composition results in a change in the size of the unit for which the family is eligible, HABC will place the family back on the waiting list for the appropriate size unit using the family's original date and time of application.
- If changes in income result in a family being ineligible, HABC will send a denial letter and inform the family of its right to an informal hearing.

Time Limit For Acceptance Of Unit

HABC ACOP, Section 5.15

- Applicants must accept a unit offer within 3 working days of the date the offer is made.
- Offers may be made over the telephone, by US mail or by email.
- Applicants will be removed from all centrally managed PH waiting lists if they do not respond within three working days from the date of the call/email.
- If a letter is sent via US Mail, the three working days is presumed to start two working days after the date on the letter.
- This policy presumes that the unit offer letter is mailed on the same date referenced on the unit offer letter.
- Once an applicant has accepted a unit, the applicant must sign a lease with an effective date that is no more than 3 business days from the date of unit acceptance.

- However, if the unit is not ready on the date of unit acceptance, the lease must be signed with an effective date which is no more than 3 business days from the date the unit will be ready for occupancy.

Unit Acceptance: Unit Outside Of HABC Occupancy Standards

HABC ACOP, Section 5.16

- If a family agrees to be housed in a unit that is smaller than the unit size under HABC's occupancy standards, the family will not be allowed to request an occupancy standard move for two years.
- If a family agrees to be housed in a unit that is larger than the unit size under HABC's occupancy standards, the family will be required to sign a Lease Addendum whereby the family agrees to move upon thirty days' notice from HABC. In such circumstances, HABC will provide an appropriately sized unit for the family who is required to move.

Good Cause For Unit Refusal

HABC ACOP, Section 5.18

- "Good cause" for the refusal to take occupancy of a housing unit is defined below.
- If an applicant refuses an offer for good cause, the applicant will retain his/her position on the waiting list and will not be removed from the waiting list.
- Reasons which constitute good cause include:
  - Inaccessibility to source of employment or children's day care such that an adult household member must quit a job or drop out of an educational institution or a job training program, which must be verified by the employer, job training program, or day care center as applicable.

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- For families who have a family member with a disability, inaccessibility to the medical provider or service provider, which must be verified by the family member's healthcare professional.
- A qualified, knowledgeable health professional verifies the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member.
- The unit is inappropriate for the applicant's disabilities (if the inappropriateness of the unit is not obvious, HABC may require verification from the applicant's healthcare professional).
- There is a change to the school which covers the development selected and the parent/guardian no longer finds the location selection appropriate.
- The unit includes tenant payment responsibility for utilities, and it will create a financial hardship for the family and/or they are unable to get the utilities in a family members' name.
- Other circumstances that are determined by HABC's Admissions and Leasing Office to prevent the applicant from occupying the unit as may be verified by an independent third party.

LEASING INCENTIVE

HABC ACOP, Section 5.19

- HABC will offer a $500 rent credit to applicants who agree to lease a “hard to lease” unit.
- A unit will be considered “hard to lease” when the unit has been vacant for 30 days after being placed in a “ready to lease” status and there have been at least two prior unit refusals for the current vacancy.

- Applicants who accept "hard to lease" units and who receive the leasing incentive will be required to remain in the unit for at least one year, with exceptions being granted for reasonable accommodations, unit conditions, and/or personal safety.
- If the family moves from the unit and does not qualify for one of the exceptions, they will be charged $500 which represents the amount of the incentive they received.
- Upon acceptance of the leasing incentive, the HOH is required to sign a Receipt of Leasing Incentive Acknowledgment form.
- A copy of the form must be retained in the tenant file with a copy to finance.

EIV Reports

Debts Owed to PHAs and Terminations

- All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations one time.
- Prior to admission to the program, the PHA must search for each adult family member in the EIV Debts Owed to PHAs and Terminations module.
- If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV.
- Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

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HABC ACOP Section 4.16

- All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations.
- Prior to admission to the program, HABC will search for each adult family member in the EIV Debts Owed to PHAs and Terminations module.
- HABC will identify former residents of federally assisted rental programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or to a landlord as a result of participation in the Housing Choice Voucher Program (HCVP).
- HABC will retain the search results with the application along with any documentation obtained as a result of contacts with the applicant and the PHA and/or owner at the other location. HABC will determine if the information warrants a denial in accordance with the policies in this ACOP.

EIV Existing Tenant Search

- Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module.
- The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified.
- The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

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- If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

HABC ACOP Section 4.16

- An EIV existing tenant search will be conducted on minor and adult members to identify applicants who may be receiving federal rental assistance.
- If the EIV existing tenant search reveals that an applicant may be receiving another federal housing program subsidy, HABC will give the applicant the opportunity to explain any circumstances relative to his/her receiving another federal rental assistance subsidy.
- HABC may contact the respective Public Housing Agency (PHA) or owner to confirm the individual's program participation status before admission.
- HABC will not enter into a lease with an applicant until confirmation is obtained that there will be no duplicate rental assistance.

EIV Income Report

- For each new admission, the PHA is required to review EIV Income Report within 120 days of new admission. If discrepancies are identified, the PHA must resolve them within 60 days of report date.

PUBLIC HOUSING ELIGIBILITY QUIZ

Part I: Multiple Choice (A question may have more than one correct answer).

1. HABC verifies changes in income and family composition that occur between the eligibility determination and unit offer. As a result, a change in family size may result in a family being placed back on the waiting list for an appropriately sized unit.
   a. True
   b. False

2. Previous debt to HABC or any other PHA from public housing or HCV must be paid in full prior to admission.
   a. True
   b. False

3. If a mom, her 17 year-old son, and 13 year old daughter live in a two-bedroom unit:
   a. The daughter can share a sleeping room with mom, but not with the son.
   b. The son cannot share a bedroom with the mom
   c. Anyone can sleep wherever they want - it's a free country
   d. They'll have to move

4. HABC's income targeting requirement states:
   a. At least 75% of new admissions must have income that does not exceed 50% of area median income
   b. All new admissions must have incomes below 30% of area median income
   c. Extremely low-income families are ineligible for admission to the program
   d. At least 40% of new admission must have incomes below 80% of area median income

5. Household members of the opposite sex are not required to share a bedroom under HABC's Occupancy Guidelines.
   a. True
   b. False

SOCIAL SECURITY/NON-CITIZENS LEARNING ACTIVITY

- The Gonzalez family is applying for admission to the program.

Part I: Gonzalez Family

Name	Age	SSN	Disabled	Citizenship Status
Jesús Gonzalez	30	Does not have one	N	Ineligible non-citizen
Maria Gonzalez	37	Does not have one	N	Ineligible non-citizen
Juan Gonzalez	7	445-56-5843	Y	Eligible citizen
Elsa Gonzalez	4	445-32-7589	N	Eligible citizen
Inez Gonzalez (Jesús' aunt)	65	445-87-8937	N	Eligible non-citizen
Laura Alvarez (Maria's sister)	40	332-67-8383	N	Eligible non-citizen

1. Does this family qualify for the program under the non-citizens rule?
   a. Yes, because at least one member meets the requirements under Section 214
   b. No, because neither the head or spouse are citizens or eligible non-citizens
   c. No, because only the children are citizens
   d. Yes, because there is one adult in the family that meets the requirement under Section 214

2. What documentation concerning their social security/immigration status would the PHA need in the file?

3. Which family members are eligible for the program under the non-citizens rule?
   a. Juan and Elsa
   b. Inez and Laura
   c. No one
   d. Juan, Elsa, Laura, Inez

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4. Elsa has lived with the family since birth. If the family refused to disclose Elsa's SSN, what action can the PHA take?
   a. The PHA must deny the family assistance
   b. The PHA has no authority to require her to disclose her SSN
   c. Depends on the PHA's policy

Part II: True/False (Mark T for True or F for False)

1. ____ PHAs are not required to provide reasonable accommodation if it would alter their work load.

2. ____ To qualify for public housing, the family's annual income must be under 30% of the area median.

3. ____ Applicants may claim a preference even after they have been placed on the waiting list.

4. ____ An EIV Income Report must be run within 120 days of submission of the initial 50058.

5. ____ If the head of household, spouse, cohead, or sole member in a family is employed, the family is eligible for a waiting list preference.

6. ____ HABC requires that applicant live in Baltimore City in order to apply for public housing.

7. ____ A family may be on both the Centrally Administered Location-Based Waiting List and the Centrally Administered First Available Waiting List.

8. ____ A minor who is under age 18 and is not emancipated may apply for housing and sign a lease as head of household.

9. ____ If a family is an elderly family, they may be listed on both the Centrally Administered Mixed Population Bailey Waiting List and the Centrally Administered Location-Based Waiting List.

10. ____ When a family splits into two otherwise eligible families while on the waiting list, only one family retains the original date and time of the pre-application.

11. ____ Dependents subject to joint custody arrangements are considered members of the family if they will live with the family 50% or more of the time.

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CHAPTER 3 Leasing

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe pre-leasing activities
- Analyze the required components of the public housing lease

Section 3.1 Leasing Procedures

PREOCCUPANCY DUTIES

Industry Practice

- A lease orientation is conducted prior to leasing the unit.
- Prior to the conference, manager should:
  - Prepare the lease and other documents
  - Inspect and prepare the unit for occupancy
- When the manager conducts a preinspection of the unit, a checklist should be used that records maintenance needs as well as preventative maintenance requirements.
- The manager is responsible to see that all work has been completed and equipment is in proper working order prior to move-in.
- When the unit is ready for occupancy, the family is notified and the lease-up process takes place.

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LEASE ORIENTATION

HABC Policy, Section 11.9

- Before signing the lease, families will be required to attend a pre-occupancy training session.
- At both the pre-occupancy training session and at the lease signing, a number of topics will be discussed that will include, but are not limited to, the topics listed below, before the family signs the lease.
  - Applicable deposits and other charges
  - Provisions of the lease
  - Flat rents
  - Rent payment options
  - Orientation to the community
  - Unit maintenance and work orders
  - Explanation of each of the forms to be signed by the family
  - Excess utility consumption charges
  - Terms of occupancy
  - Community service requirements
  - VAWA protections

HABC ACOP, Section 11.9

- When the family signs the lease, an HABC representative or a private manager, whichever is applicable, will review the lease and the documents incorporated into the lease, including but not limited to the documents listed below, with the head of household and cohead.
  - A copy of the lease
  - A copy of the grievance procedures
  - A copy of the House Rules or community rules, if applicable

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- A copy of the schedule of maintenance charges
- Information about the protections offered under VAWA

HABC ACOP, Section 11.2 and 11.3

COMMUNITY SERVICE

- On August 13, 2015, HUD issued Notice PIH 2015-12 to assist PHAs in better understanding and administering the mandated community service and self-sufficiency requirement (CSSR). The notice supersedes all previous guidance.
- This notice states that PHAs must provide resident families with a copy of the PHA policies and HUD requirements regarding community service at the time of initial program participation.
- The notice also states that it is required that all adult members of a resident family sign a certification (Attachments A and B in the notice) that they have received notice of the CSSR requirements, read the requirements, and understand that if they are not exempt, failure to comply with the requirements will result in nonrenewal of their lease.
  - Attachment A is signed at the time of initial lease execution for new families entering the program.
  - Any adults subsequently added to the lease or family members who come of age are also responsible for signing the certification.
  - Attachment B is signed at annual reexamination
- The community service requirement will be covered in greater detail in Chapter 4.

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SMOKE-FREE PUBLIC HOUSING

FR Notice 12/5/16

- On December 5, 2016 HUD issued the Instituting Smoke-Free Public Housing Final Rule that requires PHAs that operate public housing to amend their PHA plans and tenant leases to implement smoke-free policies no later than July 30, 2018. On February 15, 2017 HUD issued Notice PIH 2017-03 which provides regulatory guidance for instituting the smoke-free final rule.

- HABC's ACOP includes an Appendix with HABC's Smoke-Free Policy.

- Residents will be required to sign a lease addendum that incorporates the Smoke-free Policy in the lease and acknowledges that:

  (1) HABC's adoption of this policy for a smoke-free living environment does not in any way change the standard of care that HABC or its Asset Managers would have to a resident household to render buildings and premises designated smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental property;

  (2) HABC specifically disclaims any implied or express warranties that the building, common areas, or resident's dwelling unit and premises will have any higher or improved air quality standards than any other rental property;

  (3) HABC cannot and does not warrant or promise that the rental premises or common areas will be free from secondhand smoke;

  (4) HABC's ability to police, monitor or enforce the terms of the Policy and the lease addendum will be dependent in significant part on voluntary compliance by the resident, members of the household and guests, as well as by other residents and guests in other parts of the smoke-free area; and thus cooperation of residents is expected; And

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(5) Residents with respiratory ailments, allergies or other physical or mental conditions relating to smoke are informed that HABC does not assume any higher duty of care to enforce the Policy or the lease addendum than any other HABC obligation under the lease

24 CFR 966.53(a)

- HABC's smoke-free policy must ban the use of prohibited tobacco products in all public housing living areas and interior areas and administrative offices as well as all outdoor areas up to 25 feet from public housing and administrative office buildings.

24 CFR 966.53(c)

  - Prohibited tobacco products are defined as items that involve the ignition of tobacco leaves such as (but not limited to) cigarettes, cigars, pipes and waterpipes (hookahs).

    - Electronic Nicotine Delivery Systems (ENDS), also called e-cigarettes, are not prohibited under the rule but PHAs have the discretion to prohibit them as part of their smoke-free policies

- The use ENDS within a dwelling unit is not prohibited by HABC policy but the use of such electronic cigarettes is prohibited in all other Smoke-Free Areas. PHAs may limit smoking to designated smoking areas outside of restricted areas, may create additional smoke-free areas, or may make their entire grounds smoke-free.

  - Restricted areas include hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures.

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- HABC defines Smoke-Free Areas as areas where smoking is prohibited such as living units and interior common areas, including but not limited to bathrooms, lobbies, hallways, stairways, elevators, management offices, community rooms balconies and on the grounds of all HABC properties including playgrounds, basketball courts, lawns, parks, courtyards, walkways and parking lots except in Designated Smoking Areas (DSAs).

- The rule does not prohibit individual residents from smoking.
  - PHAs should continue to lease to individuals who smoke.
- The rule does not apply to mixed-finance developments or properties that have converted under RAD.
- HABC's policy applies to all public housing properties owned by HABC. HABC prohibits smoking in the locations outlined below:
  - All public housing residential units (including HABC's Scattered Sites inventory)
  - Common areas such as stairwells, community centers, lobbies, laundry rooms and hallways
  - Areas within 25' of all residential, management and administrative offices
  - Playgrounds and Basketball courts on HABC properties
  - Balconies and porches on HABC properties
- HABC's policy does not apply to properties that are not owned by HABC such as mixed-finance developments and properties assisted under the Housing Choice Voucher Program (HCVP). A list of mixed-finance developments that are not subject to this policy is available upon request.

UNIT INSPECTION

Notice PIH 98-54; CFR 35.92(b)

- The PHA must provide lead-based paint disclosure information to the family prior to the execution or approval of any lease for a unit constructed before 1978.

CFR 966.4(i)

- The prospective tenant and the manager must conduct a joint move-in inspection of the unit. This should be done prior to execution of the lease agreement.
- The specific condition of the unit, as well as equipment and appliances, should be recorded for each room.
- Items which need repair should be scheduled and repaired prior to occupancy.
- The present condition of walls, floors, counter tops and appliances should be noted so that the tenant is not charged at a later date for the pre-existing conditions of such items.

HABC ACOP, Section 12.2

- The head of household or cohead must sign the inspection form.

INCOME CHANGES AT LEASE UP

- For a new admission family, at the time of unit viewing and offer, if the family reports a change in income, the site must refer the family back to Admissions for verification and calculation of income.
- Admissions staff will re-determine income eligibility and then notify Housing Operations.
- If the family is income eligible, Housing Operations will call the family and set up a leasing appointment.

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Section 3.2 Required Lease Provisions

- A PHA's public housing lease establishes the basis of the legal relationship between the PHA and the tenant.
- The PHA's lease must be in compliance with HUD and other federal regulations as well as with state and local landlord-tenant laws.
  - PHAs should be aware that landlord-tenant laws vary from state to state. Hence a lease provision that is legal and enforceable in one locality may not be so in another.
- PHAs are required by HUD to include certain provisions in their lease, and they are prohibited from including certain others.
  - The HUD regulations governing public housing leases are set forth in 24 CFR Part 966, Subpart A: Dwelling Leases, Procedures, and Requirements.
  - HUD model lease is in Public Housing Occupancy Guidebook, Appendix IV

Notice PIH 2017-08

- PHAs must ensure that their public housing leases contain the updated provisions of 24 CFR Part 5, Subpart L, including:
  - Definitions (24 CFR 5.2003)
  - VAWA protections (24 CFR 5.2005)
  - Documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2007)
  - Remedies available to victims of such violence (24 CFR 5.2005 and 5.2009)

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- PHAs are also free to include other provisions in their lease form so long as the provisions are:
  - Considered reasonable
  - Not prohibited by law
  - Fairly applied
- Notice PIH 2017-08 also encourages PHAs to include any addition protections available for victims of domestic violence, dating violence, sexual assault, or stalking.
- Lead Disclosure Rule
  - Requires lead disclosure addendum to lease
  - Regardless of the presence of children

PARTIES, DWELLING UNIT, AND TERM

CFR 966.4(a)(1)

- The lease must state all of the following:
  - Names of the PHA and the tenant
  - Address of the unit rented
  - Term of the lease
  - Utilities, services, and equipment to be supplied by the PHA at no extra charge
  - Utilities and appliances to be paid for by the tenant
  - Composition of the household, as approved by the PHA
    - The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child.
    - The family must request PHA approval to add any other family member as an occupant of the unit.
      - Families may file a grievance if the PHA denies their request to add someone to the household

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CFR 966.4(a)(2)

LEASE TERM AND RENEWAL

- The lease must have a 12-month term and must be automatically renewed for the same period.
- The PHA may *not* renew the lease if the family continues to violate the requirement for resident performance of community service or participation in an economic self-sufficiency program and if the family is determined to be over the income limit for 24 consecutive months.
  - The lease will convert to month-to-month for families whose tenancies will be terminated within six months for being over-income if this is the PHA's policy.
  - For non-public housing over-income (NPHOI) families who are allowed to execute an NPHOI lease under PHA policy rather than be terminated, leases will not be automatically renewable and renew in accordance with 24 CFR 960.509(b)(2).

EXECUTION AND MODIFICATION

CFR 966.4(a)(3)

- The lease must be executed (signed) by the tenant and the PHA.
  - An annual signing process for automatic renewals is not necessary.

HABC ACOP, Section 11.3

- Many PHAs require all adult members to sign the lease.
  - HABC policy states the head of household is the person who signs the lease, assumes legal and financial responsibility for the unit, and is listed on the lease as the head of household.

CFR 966.4(a)(3)

- The lease may be modified at any time by written agreement of the tenant and the PHA. See Section 11.4 of the ACOP for information on modification of the lease.

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PAYMENTS DUE UNDER THE LEASE

TENANT RENT

CFR 966.4(b)(1)(i)

- The tenant must pay the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements.
  - The amount of tenant rent is subject to change in accordance with HUD requirements.

CFR 966.4(b)(1)(ii)

- The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term.
  - The PHA must give the tenant written notice stating any change in the amount of tenant rent and when the change is effective.

HABC ACOP, Section 11.11

- HABC policy states the resident rent is due and payable on the 1st of every month. If the rent payment is not received by the date set forth in the lease, a delinquent rent notice will be sent.

PHA CHARGES

CFR 966.4(b)(2)

- The lease must provide for charges to the tenant for maintenance and repair beyond normal wear and tear and for consumption of excess utilities.

HABC ACOP, Section 12.12

- HABC's ACOP defines “beyond normal wear and tear” as items that could be charged against the resident's security deposit under state law or repairs resulting from willful damage, neglect, or negligence.

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Notice PIH 2004-02 (HA)

- A PHA may charge residents who pay flat rents for excess consumption of PHA-provided utilities under the following conditions:
  - The PHA incorporated costs for reasonable levels of consumption into its flat rents.
  - The residents' consumption exceeds the reasonable levels used to determine the flat rents.
  - The excess consumption can be documented through check metering.
  - Residents have been notified of the policy.

HABC ACOP, Section 11.15

- Where applicable, charges for excess utility consumption will be due and collectible thirty calendar days after HABC gives written notice of the charges. The written notice is considered an adverse action and will meet the requirements governing a notice of adverse action.
- Non-payment of excess utility consumption charges to HABC or the privately owned/managed site is a violation of the lease and is grounds for eviction.

CFR 966.4(b)(3)

- At the option of the PHA, the lease may provide for payment of penalties for late payment.

HABC ACOP, Section 11.12

- Upon implementation, HABC or the privately owned/managed site shall assess and collect a fee of 5% of the monthly rent if the resident does not pay the full amount of rent due by the end of the fifth day of the month. Repeated late payment of rent and/or other charges is grounds for termination of the Lease. Any rent payment received will be applied to the oldest rent charges in the resident's account.

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- A charge will be assessed against the resident for checks that are returned for insufficient funds or checks written on a closed account. When HABC or a privately owned/managed site has been informed that a resident's check has been returned for insufficient funds, the resident will be notified, and the rent is to be satisfied by the payment of the outstanding amount using HABC or privately owned/managed site approved payment options immediately upon such notification to the resident. HABC or the privately owned/managed site will always consider the rent unpaid when a check is returned because of insufficient funds, or a check is written on a closed account. If a resident's check is returned twice for insufficient funds, HABC or the privately owned/managed site will no longer accept a check from, or on behalf of, that resident.

- If HABC or the privately owned/managed site has not agreed, in writing, to accept payment at a later date, a "Failure to Pay Rent" complaint will be filed with the court. HABC or the privately owned/managed site will note the cost of filing the "Failure to Pay" complaint in the resident's account and will seek an award of this cost in the "Failure to Pay" action upon judgment by the court in favor of HABC or the privately owned/managed site.

CFR 966.4(b)(4)

- The lease must provide that charges assessed for late payment, maintenance and repair, or consumption of excess utilities are not due until two weeks after the PHA gives the tenant written notice of the charges.
  - The notice must meet the requirements governing a notice of adverse action.

SECURITY DEPOSIT

CFR 966.4(b)(5)

- At the option of the PHA, the lease may provide for a security deposit not to exceed one month's rent or a reasonable fixed amount required by the PHA.
  - Interest earned is subject to applicable state laws
- PHA may allow applicant to pay security deposit in installments.

HABC ACOP, Section 11.6

- HABC and the privately owned/managed sites require new residents to pay a security deposit in the amount of $50.00 or an amount not to exceed one month's rent, whichever is lower.
- The family may be allowed to pay the security deposit in installments, or the family may be required to pay the security deposit in full prior to occupancy.
- Subject to applicable laws, the security deposit and the interest earned on security deposits will be refunded to the resident unless used for any of the costs listed below.
- The amount of the security deposit required is specified in the lease. HABC and the privately owned/managed sites will hold the security deposit for the period the resident occupies the unit.

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- HABC and the privately owned/managed sites will refund the security deposit (including interest earned on the security deposit) less any amounts owed within 45 calendar days after move-out and resident's notification of a new address. The security deposit will be used by HABC and the privately owned/managed sites to pay the cost of:
  - Unpaid rent;
  - Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;
  - Other charges under the lease.
- HABC or the privately owned/managed site will provide the resident, or the person designated by the former resident in the event of the former resident's incapacitation or death, with a written list of any charges against the security deposit. If the resident or his/her designee disagrees with the amount charged to the security deposit, HABC or the privately owned/managed site will meet with the former resident or his/her designee to discuss the charges.
- The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to HABC or the privately owned/managed site. All keys to the unit must be returned to the appropriate management office upon moving out of the unit.

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REDETERMINATION OF RENT AND FAMILY COMPOSITION

CFR 966.4(c)

- The lease must provide for redetermination of rent and family composition, including:

CFR 966.4(c)(1)

  - The frequency of regular rental redeterminations

CFR 966.4(c)(1)

  - The basis for interim redeterminations

CFR 966.4(c)(2)

  - An agreement by the tenant to furnish applicable information and certifications needed for rent, eligibility, and unit size determinations

CFR 966.4(c)(3)

  - An agreement by the tenant to transfer to a unit of the appropriate size, based on family composition, upon PHA notice that such a unit is available

CFR 966.4(c)(4)

- When the PHA determines that a unit transfer or a change in total tenant payment or tenant rent is needed, the PHA must notify the tenant that s/he may:

  - Ask for an explanation of the determination
  - Request a hearing under the PHA's grievance procedures if s/he does not agree with the determination

FAMILY CHOICE OF RENTAL PAYMENT

CFR 960.253(a)(1)

- The PHA must allow the tenant to elect annually whether to pay income-based rent or flat rent.

CFR 960.253(e)

- The PHA must provide the tenant with enough information to make an informed choice.

TENANT'S RIGHT TO USE AND OCCUPANCY

CFR 966.4(d)(1)

- The lease must provide that the tenant and authorized household members have the right to exclusive use and occupancy of the unit.

CFR 5.100

  - This right includes reasonable accommodation of guests (i.e., persons temporarily staying in the unit with the consent of a household member)
  - Unauthorized occupants are trespassers

HABC GUEST POLICY

- Guests may not stay overnight for more than 21 nights in any 52-week period of time without HABC approval.
- In a joint custody arrangement, the minor is considered a guest and not a family member if the minor is in the household less than 90 calendar days per year.
- Use of the unit address as the guest's current residence for any purpose shall be construed as permanent resident and is a violation of the lease.

HABC ACOP, Section 11.10

- Residents must obtain prior written approval from HABC to use any indoor or outdoor common area for an event. Additionally, HABC approval is needed for use of any utilities in any indoor or outdoor common area for an event. Violations of this policy will be considered a material violation of the lease.
- Use of the unit for any purpose other than the sole private dwelling of resident and authorized family members, without prior written HABC approval, is a material violation of the Lease.

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CFR 966.4(d)(2)

- With the consent of the PHA, household members may engage in legal profit-making activities in the dwelling unit so long as the activities are incidental to the primary use of the unit as a residence.

HABC ACOP, Section 11.10

- HABC, by prior written approval, may consent to the use of the unit for legal profit making activity subject to Federal regulations, HABC's policies, and local laws, where HABC has determined that such activities are incidental to primary use of the unit as a residence by members of the household.
-
-
-

CFR 966.4(d)(3)

- With the consent of the PHA a foster child or live-in aide may reside in the unit.
  - The PHA may adopt reasonable policies defining when consent will be given or denied and may take into consideration such factors as:
    - Whether the addition of a new occupant will require a transfer to another unit
    - Whether another unit of the appropriate size is available
    - The PHA's obligation to make reasonable accommodations for persons with disabilities

PHA OBLIGATIONS

CFR 966.4(e)

- The lease must provide for the following PHA obligations:

CFR 966.4(e)(1)

  - To maintain the premises and project in decent, safe, and sanitary condition

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CFR 966.4(e)(2) - To comply with building and housing code requirements and HUD regulations materially affecting health and safety

CFR 966.4(e)(3) - To make necessary repairs to the dwelling unit

CFR 966.4(e)(4) - To keep in clean and safe condition project buildings, facilities, and common areas not otherwise assigned to the tenant for maintenance and upkeep

CFR 966.4(e)(5) - To maintain electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, in good and safe working order

CFR 966.4(e)(6) - To provide and maintain receptacles and facilities for the deposit of ashes, garbage, rubbish, and other waste (except containers for the exclusive use of an individual tenant family)

CFR 966.4(e)(7) - To supply running water and reasonable amounts of hot water and heat at appropriate times of the year except where:

- The building that includes the dwelling unit is not required to be so equipped by law
- Heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection
- Baltimore City's housing code requires that rental units be heated to a minimum temperature between October 1st and April 30th as follows:
- Habitable rooms, bathrooms, and toilet rooms must be at least 70°F from 5 AM to midnight, and at least 65°F from midnight to 5 AM.

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CFR 966.4(e)(8)

- To notify the tenant of the specific grounds for any adverse action by the PHA, such as proposed lease termination, transfer of the tenant to another unit, or imposition of charges for maintenance, repair, or excess utility consumption
  - When the PHA is required to afford the tenant the opportunity for a hearing under the PHA's grievance procedures, the notice of proposed adverse action must inform the tenant of his/her right to request such a hearing.
  - In the case of a lease termination, a notice in accordance with the regulatory requirements for lease termination will constitute adequate notice of proposed adverse action.
  - In adverse action other than lease termination, the PHA may not take the proposed action until the time to request a hearing has expired or, if a hearing is requested by the tenant, until the grievance process is completed.

CFR 966.4(e)(9)

- To consider lease bifurcation in circumstances involving domestic violence, dating violence, stalking, or human trafficking.

TENANT OBLIGATIONS

CFR 966.4(f)

- The lease must provide for the following tenant obligations:

CFR 966.4(f)(1)

- Not to assign the lease or to sublease the dwelling unit

CFR 966.4(f)(2)

- Not to provide accommodations for boarders or lodgers

CFR 966.4(f)(3)

- To use the 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

CFR 966.4(f)(4)	- To abide by necessary and reasonable PHA rules posted in the project office and incorporated by reference in the lease
CFR 966.4(f)(5)	- To comply with all tenant obligations required by building and housing codes materially affecting health and safety
CFR 966.4(f)(6)	- To keep the dwelling unit and any other areas assigned for the tenant's exclusive use in clean and safe condition
CFR 966.4(f)(7)	- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner
CFR 966.4(f)(8)	- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities, including elevators
CFR 966.4(f)(9)	- To refrain from, and cause household members and guests to refrain from, destroying, defacing, damaging, or removing any part of the dwelling unit or project
CFR 966.4(f)(10)	- To pay reasonable charges for repair of damages (beyond normal wear and tear) to the dwelling unit or to the project (including damages to project buildings, facilities, or common areas) caused by the tenant, a household member, or a guest
CFR 966.4(f)(11)	- To act, and cause household members and guests to act, in a manner that will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in decent, safe, and sanitary condition

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CFR 966.4(f)(12)(i)

- To assure that no tenant, member of the tenant's household, or guest engages in:
  - Any criminal activity that threatens the health or safety of other residents or their right to peaceful enjoyment of the premises
  - Any drug-related criminal activity *on or off* the premises

CFR 966.4(f)(12)(ii)

- To assure that no other person under the tenant's control engages in:
  - Any criminal activity that threatens the health or safety of other residents or their right to peaceful enjoyment of the premises
  - Any drug-related criminal activity *on* the premises

CFR 966.4(f)(12)(iii)

- To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health or safety of other residents or their right to peaceful enjoyment of the premises

CFR 960.603

- To comply with community service requirements

TENANT MAINTENANCE

CFR 966.4(g)

- The lease may require the tenant to perform specified seasonal or other maintenance tasks providing that:
  - The tasks are customarily performed by tenants in dwelling units of similar design and construction
  - The requirement is included in the lease in good faith, not to evade PHA obligations
  - The PHA exempts tenants who are unable to perform the tasks because of age or disability

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DEFECTS HAZARDOUS TO LIFE, HEALTH, OR SAFETY

CFR 966.4(h)

- The lease must state the rights and obligations of both the tenant and the PHA when damages hazardous to life, health, or safety occur.

CFR 966.4(h)(1)

- The tenant must immediately notify project management of any damages to the unit that are hazardous to life, health, or safety.

CFR 966.4(h)(2)

- Regardless of who caused the damage, the PHA is responsible for repairing the unit within a reasonable time (e.g., 24 hours).
  - If the damage was caused by the tenant, a household member, or a guest, the reasonable cost of repairs must be charged to the tenant.

CFR 966.4(h)(3)

- If necessary repairs cannot be made within a reasonable time, the PHA must offer the tenant standard alternative accommodations, if available.

CFR 966.4(h)(4)

- If repairs cannot be made within a reasonable time and alternative accommodations are not provided, the PHA must abate (reduce) the rent for the unit in proportion to the seriousness of the damage and the loss in value as a dwelling.
  - Abatement is not required under either of the following conditions:
    - The tenant rejected alternative accommodations offered by the PHA.
    - The damage was caused by the tenant, a household member, or a guest.

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HABC ACOP, Section 12.13

- If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the resident must immediately notify HABC or the privately owned/managed site, whichever is applicable, of the damage. Abatement of the emergency must be completed within 24 hours from the time the work order is issued.

- If HABC or the privately owned/managed site cannot make repairs within 24 hours, the resident will be offered standard alternative accommodations. If HABC or the privately owned/managed site can neither repair the defect within 24 hours nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

- The following items are to be considered emergency in nature and require immediate (less than 24 hour) response:

  - Broken lock which affects unit security
  - Broken window glass which affects unit security, is a cutting hazard, or occurs during inclement weather (to be secured or abated)
  - Plumbing leaks that can cause flooding or damage to the unit
  - Natural gas leaks or smell of fumes
  - Backed-up sewage
  - Electrical hazard
  - Units in which the temperature is below 68 degrees because of defective or broken heaters

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- Units with elderly residents or residents with disabilities in which HABC-owned air conditioners are inoperable during the summer or in which the refrigerators are inoperable

- Inoperable smoke detectors will be treated as a 24-hour emergency and will be replaced or made operable.

- Residents who disengage smoke detectors for convenience purposes are in violation of their lease.

PREOCCUPANCY AND PRETERMINATION INSPECTIONS

CFR 966.4(i)

- The PHA and the tenant or tenant representative are obligated to inspect the dwelling unit prior to occupancy.

  - The PHA must furnish the tenant with a written statement of the condition of the dwelling unit and the equipment provided with it.

    - The statement must be signed by the PHA and the tenant.

    - A copy must be retained by the PHA in the tenant's file.

CFR 966.4(i)

- The PHA must also inspect the unit when the tenant moves out.

  - Unless the tenant moves out without giving notice, the PHA must provide for the tenant's participation in the inspection.

  - The PHA must furnish the tenant with a statement of any charges to be made for maintenance or repairs beyond normal wear and tear.

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ENTRY OF DWELLING UNIT DURING TENANCY

CFR 966.4(j)

- The lease must set forth the conditions under which the PHA may enter the dwelling unit after the tenant takes occupancy.

CFR 966.4(j)(1)

- The lease must permit the PHA to enter the dwelling unit during reasonable hours for any of the following nonemergency purposes:
  - To perform routine inspections and maintenance
  - To make repairs or improvements
  - To show the unit for re-leasing

CFR 966.4(j)(1)

- Before entering the unit for a nonemergency purpose, the PHA must give the tenant reasonable advance notification.
  - A written statement specifying the purpose of the PHA entry delivered to the unit at least two days before entry is considered reasonable notice.

CFR 966.4(j)(2)

- The lease must also permit the PHA to enter the unit without notice if there is reasonable cause to believe that an emergency exists.

CFR 966.4(j)(3)

  - If no adult household members are present when the PHA enters the unit, the PHA must leave behind a written statement specifying the date, time, and purpose of the entry.

HABC ACOP, Section 12.10

- If HABC is unable to enter the dwelling unit because a different lock has been installed in the dwelling unit, HABC will install a new lock to gain entry to perform the necessary inspection, maintenance, extermination treatment, or repair.

- HABC will leave a written statement posted on the dwelling unit notifying the resident to come to the management office of his/her development to obtain the new keys.

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- This information will be included in advance in the notice to resident scheduling such inspection, maintenance, extermination treatment, or repair.
- HABC and the privately owned/managed sites will provide families with written 48-hour notice prior to entering the unit for non-emergency reasons.
- Non-emergency reasons for entering a unit are:
- Maintenance and repairs- If a resident requests repairs through the work order system of HABC or the privately owned/managed sites, the resident will be informed at the time of the request that HABC or the privately owned/managed sites may enter the resident's unit during normal business hours, without any further advance written notice to the resident, for the sole purpose of making the requested repairs. Maintenance staff will knock and announce their entry into the unit upon arrival to make the requested repairs. HABC or the privately owned/managed sites will leave a summary of the actions taken during the repair visit.
  - Inspections
  - To make improvements
- An adult family member should be present in the unit during a non-emergency inspection. If no one is in the unit, the staff person(s) will leave a written notice for the resident regarding the date and time the non-emergency inspection was attempted.
- If a resident needs to reschedule a non-emergency inspection, the resident must notify HABC or the privately owned/managed site at least 48 hours prior to the re-scheduled inspection.

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- HABC or the privately owned/managed site will reschedule the non-emergency inspection no more than twice unless the resident has a verifiable good cause reason for refusing entry. HABC may request verification of such good cause. If the resident refuses to allow the inspection, the resident will be in violation of the lease.

NOTICE PROCEDURES

CFR 966.4(k)(1)

- The lease must provide procedures to be followed by the PHA and the tenant in giving notice to each other.

CFR 966.4(k)(1)(i)

- Except for notices regarding entry of the dwelling unit, notices to the tenant from the PHA must be in writing and must be either delivered by hand to an adult member of the tenant's household or sent by first-class mail properly addressed to the tenant.

CFR 966.4(k)(2)

  - If the tenant is visually impaired, all notices must be in an accessible format.

CFR 966.4(k)(1)(ii)

- Notices to the PHA from the tenant must be in writing and must be either delivered by hand to the project office or PHA central office or sent by first-class mail properly addressed.

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TERMINATION OF TENANCY AND EVICTION

PROCEDURES

CFR 966.4(l)(1)

- The lease must state the procedures to be followed by the PHA and by the tenant to terminate the tenancy.

GROUNDS FOR TERMINATION

- The PHA is required to include in the lease certain provisions relating to termination of tenancy for criminal activity and alcohol abuse.
- Grounds for termination are discussed in detail in the Terminations chapter.

EVICTION

CFR 966.4(m)

- The lease must give the tenant the right to examine any PHA documents, including records and regulations, directly relevant to a termination of tenancy or eviction before a grievance hearing or court trial concerning the matter.
  - The PHA must allow the tenant to copy any of the documents at the tenant's expense.
  - If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction.

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GRIEVANCE PROCEDURES

CFR 966.4(n)

- The lease must provide that all disputes concerning tenant or PHA obligations will be resolved in accordance with the PHA's grievance procedures.

CFR 966.51(a)

  - There is an exception to this requirement for certain criminal activities, including violent and drug-related criminal activities, in due process states.

- The lease must include a description of the PHA's policies for selecting a hearing officer.

CFR 966.52(b)

- The lease must include or incorporate by reference the PHA's grievance procedures.

Section 3.3 Other Lease-Related Requirements

TENANTS' OPPORTUNITY FOR COMMENT

CFR 966.3

- Anytime the PHA proposes to change its lease form, it must provide at least 30 days' notice to tenants and resident organizations.

CFR 966.3

- The notice must set forth the proposed changes and provide an opportunity for written comment.

CFR 966.3

- The PHA must consider any comments submitted before formally adopting a new lease form.

POSTING OF POLICIES, RULES, AND REGULATIONS

CFR 966.5

- Anything that the PHA incorporates by reference into its lease (e.g., rules, regulations, grievance procedures, schedule of flat rents, schedule of special charges for services, repairs, or utilities) must be:
  - Publicly posted in a conspicuous manner in the project office
  - Furnished to applicants and tenants on request

CFR 966.5
CFR 966.3

- Changes in anything incorporated by reference into the PHA's lease are subject to the same requirements for tenant review and comment as changes in the lease form itself.

PROHIBITED LEASE PROVISIONS

CFR 966.5

- The PHA may *not* include in its lease any of the following clauses:
  - Confession of judgment (prior consent by the tenant to any lawsuit the PHA may bring against the tenant and to a judgment in favor of the PHA)
  - Distraint for rent or other charges (agreement by the tenant that the PHA is authorized to take property belonging to the tenant and hold it until the tenant has paid the rent or other charges)
  - Exculpatory clauses (agreement by the tenant not to hold the PHA liable for any acts or omissions)
  - Waiver of legal notice by the tenant prior to actions for eviction or money judgments
  - Waiver of legal proceedings by the tenant
  - Waiver of jury trial by the tenant
  - Clause requiring that the cost of any legal action brought by the PHA against the tenant be charged to the tenant regardless of outcome

ACCOMMODATION OF PERSONS WITH DISABILITIES

CFR 966.7(a)

- For all aspects of the lease, the PHA must provide reasonable accommodations to tenants with disabilities so that they have an opportunity equal to that of tenants without disabilities to use and occupy their dwelling units.

CFR 966.7(b)

- The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a household member's disability so that the tenant can meet the requirements of tenancy and the lease.

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Learning Activity 3-1: Lease Provisions

Tenant's Opportunity for Comment

1. HABC is changing several provisions in their lease. What has to happen before the lease is adopted?

_____

_____

The Parties, Dwelling Unit, and Terms

2. If HABC's lease contains the following items. What's missing?

PHA name
Tenant name
Address of unit
Apartment number
Lease term
Household composition

_____

_____

_____

3. Lauren Kapoor wants her adult sister Lindsey to move to her unit next month. Since Lindsey is related to her, is it okay if she moves in without notifying HABC?

_____

Lease Term and Renewal

4. The Morgan family has failed to pay fees for tenant caused damages and has broken a repayment agreement for back rent charges. The property manager decides not to renew the Morgan's lease after the initial 12 month term. Is this allowable under the lease?

_____

_____

_____

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PHA Charges

5. Fred Simpson's son Jackson flushes a toy down the toilet and HABC is called to fix the damaged toilet. Is Fred responsible for these costs?

6. How does HABC determine what to charge Fred?

Late Payment Penalties

7. Amanda Carlson's rent is due by the 5th of the month. This month, she pays on the 22nd. According to the regulations, does HABC have to charge her a late fee?

8. The PHA does charge Amanda Carlson a late fee for her late rent payment. They send her written notice of the charge. When does the charge become due and collectible?

Security Deposits

9. The lease may provide for a security deposit. How much may the PHA charge?

10. Susan Washington is moving into a unit. Susan cannot pay her full security deposit upon move in. Is it okay for HABC to allow her to gradually accumulate her security deposit?

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Tenant's Right to Use and Occupancy

11. Barbara Stanley sells Avon. Can she sell products in her unit?

12. In order to cut down on administrative burden, A property manager has decided to institute a no foster children policy for all of their tenants starting next month. Is this an allowable policy?

The PHA's Obligations

13. The Gilmore family asks HABC to provide them with trash cans for their kitchen and bathroom. While HABC does provide a dumpster for all tenants as well as cans in the hall, their policy is not to provide containers for individual tenant families. Is this policy correct?

14. Amanda Allen lives in a two bedroom unit with her sons Adam and Chris. Amanda's sons move out, and HABC wants to transfer her to a one bedroom unit. What must HABC do before transferring her?

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Tenant's Obligations

15. Jamie Bullock wants to move out of state and stay with her mother for a few months. Jamie wants to rent out her unit to Jason McNally while she's gone. May she?

16. Barbara Davis wants to make some extra income by using one of the bedrooms in her unit as a room for lodgers. Some will stay in the unit for a few days at a time while others may stay a month or more. May she?

17. Jared Hill refuses to clean his dishes and they are piling up in his sink. As a result, his apartment is full of roaches. His neighbors are complaining roaches are getting into their units. Is he violating his tenant obligations under the lease?

18. Head of household Wanda Watson's grandson Henry lives in her unit with her. Henry sprays graffiti on his bedroom wall and removes his bedroom windows and doors and sells them. Does this violate Wanda's tenant obligations?

19. The tenant is responsible for damages beyond normal wear and tear to the dwelling unit or project by which of the following people?

    The head and spouse? _____

    Their 17-year old son? _____

    A pizza delivery person? _____

    The brother of the head who visits from out of town for two days _____

    A FedEx driver delivering a package to the unit? _____

20. Shirley Stevens is Barney Fritz's live-in aide. One day Shirley leaves the unit and buys drugs in front of the project. Is this a violation of Barney's tenant obligations under the lease?

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21. Jerome Glassman resides in an HABC unit. He is convicted for drug use in Las Vegas. Can the PHA terminate his tenancy?

_____

Persons under the tenant's control may not engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of residents or engage in drug related criminal activity on the premises. The following situations happen in the Bradshaw family. Are they violations?

Alana Bradshaw, 45, head of household

Muriel Bradshaw, 82, mother

Jim Bradshaw, 23, son

22. Jim invites a friend over after work and his friend beats up their next door neighbor?

_____

23. The pizza man does drugs in the building's courtyard after Alana orders a pizza?

_____

24. Alana gets a package. Afterwards the delivery person buys drugs across town?

_____

25. Muriel's friend comes over for a few hours and on the way home robs a convenience store?

_____

26. Miranda Jones drinks large amounts of alcohol quietly in her apartment. Every night at 9 o'clock she passes out in her bed after drinking heavily. Is this allowed?

_____

_____

27. What if Miranda drinks every night and becomes violent with her neighbors several times a week?

_____

_____

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Tenant Maintenance

28. A project includes a clause in their lease that requires tenants to shovel snow that accumulates on their walkways in front of their units. Sarah Gold is a person with disabilities who is unable to do so. The property manager tells her she may not be exempted from the activity since it's written in her lease. Are they correct?

Defects Hazardous to Life, Health, or Safety

29. Julie Cheng's son David throws a baseball through the front window of their unit during a January snow storm. Now what?

    Julie must:

    HABC must:

Pre-Occupancy Inspections

30. The _____ and _____ are obligated to inspect the unit prior to occupancy

31. The PHA must furnish the tenant with a written statement of:

    _____ and _____

32. The statement must be signed by _____ and _____

33. A copy must be retained in _____

Entry of Dwelling Unit

34. Amber Hunt, an employee of HABC, enters the Travis family's unit after reasonable notice to make a repair. Janna Travis, age 15, is home alone. May Amber explain to Janna why she entered the unit and then go back to her office?

35. Karina del Toro, an employee at HABC, wants to show a unit to an applicant family. That day, she decides to take them to the Goldman family's unit. Nobody is home, so Karina enters the unit using her key. Is this allowed?

Notice Procedures

36. Carlo Montoya, an employee of HABC, sees tenant Barbara Stanley in the hall and informs her she owes the PHA $25 in fees. Did he follow proper notification procedures?

Posting of Policies, Rules, and Regulations

37. Where must HABC post its schedules for charges for services, repairs and utilities?

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Notes

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CHAPTER 4 Reexaminations & Continued Occupancy

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Analyze and describe the processes associated with annual activities, including:
  - Determining PHA and family responsibilities regarding re-exams and interims, and the effective dates of re-exams
  - Identifying annual and ongoing inspection requirements for public housing units
  - Understanding the requirements for community service and PHA and family responsibilities regarding community service
  - Discussing PHA policy regarding transfers

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Section 4.1 Annual Reexaminations

HABC Reexamination Frequency

HABC ACOP, Section 14.4

- The frequency of reexaminations by HABC and the privately owned/managed sites is based on the resident's program participation, income source and whether the resident chooses income based rent or flat rent.
- Except as set forth below, the reexamination of HABC residents will generally occur every two years.
- The reexamination of households where 100 percent of income is from fixed income sources will occur every three years.
  - Fixed income refers to social security income, supplemental security income, and/or pension income.
- Regular reexamination of households who elect the flat rent option will occur every three years. Households who elect the flat rent option will be required to certify their household composition annually in addition to the flat rent update.
- Regular reexamination of households who report zero or minimal income and households at privately owned/managed properties will occur annually.
  - Minimal income is defined as less than $2,400 in annual gross household income.
- HABC will conduct annual reexaminations for any family where the following exists, regardless of the income reported by other family members:
  - Any adult family member reports zero income
  - Any adult family member reports minimal income
  - Any adult family member reports child support income

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- Over-income families, during the 24 consecutive month period where they continue to be over-income, will have regular reexaminations conducted on an annual basis; however, non-public housing over-income families will not be subject to annual reexaminations of family income.
- When and if an over-income family's income decreases to the point where they are no longer over-income, HABC will conduct a certification to review the family income and determine the applicable reexamination frequency for the family.
- HABC may also schedule a regular reexamination for completion prior to the anniversary date for administrative purposes.
- At regularly scheduled reexaminations, residents will provide all certifications and forms in accordance with HABC, HUD, and tax credit requirements, as applicable.
- The table below provides a summary of household types and reexamination frequency.

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Table of Reexamination Frequency	
Description	**Frequency of Reexamination**
Households on fixed incomes only	Triennial (MTW Policy)
Over-Income Households Only during the consecutive 24-month period where they are over-income	Annual
Households who select the flat rent option	Annual flat rent updates Annual reexamination of family composition Triennial for income and family composition
Households who report zero, non-recurring or minimal income	Annual
Households who have an adult household member who reports zero income, minimal or only non-recurring income or child support	Annual
Households at privately owned/managed properties	Annual
Households with an Earned Income Disregard	Households on an EID will have reexaminations completed on a biennial basis; however, if an EID period starts outside of the effective date of the regular reexamination, HABC will conduct an interim reexamination at the start and end of the 24-month exclusion period
All other households	Biennial (MTW Policy)
Non-Public Housing Over-Income Families	Regular income reexaminations are NOT conducted

- Regular reexamination anniversary dates will not change when an interim reexamination is completed. Where at an interim reexamination is completed and a family becomes a zero or minimal income family or family member reports zero or minimal income, HABC will change the reexamination frequency to annual at the next regular reexamination.

- Generally, if a household has multiple sources of income, the reexams frequency will be determined by the source of income that dictates the more frequent reexamination schedule. HABC reserves the right to create a different re-examination schedule.

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- On the third occasion of a family reporting a reduction in income within 3 months of a scheduled reexamination, use income from the prior year to calculate annual income.

HABC Reexamination Process

HABC PH Resource Guide and HABC ACOP, Section 14.5

- All families will be notified of their obligation to recertify by first class mail.
- Generally, HABC sends the reexamination notification letter at least 120 days before the scheduled reexamination effective date.
- Schedule reexaminations at least 90 days before the participant's anniversary date and provide families with at least 14 working days advance notice of the first scheduled reexamination appointment. Elite will generate interview scheduling letters.
- HABC will provide families with at least 14 working days advance notice of the first scheduled reexamination appointment.
- HABC and the privately owned/managed sites will provide notices in an accessible format or mail notices to a third party, if requested as a reasonable accommodation by a person with disabilities.
- Households are required to provide current and accurate information on income, assets, allowances and deductions, household composition and community service compliance as part of the reexamination process.
- All adult household members must attend the reexamination interview and sign the Personal Declaration Form.

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- Reasonable accommodations to have the interview conducted at the person's home may be made to accommodate persons with disabilities who are unable to attend the interview.
- Persons with disabilities who are unable to come to HABC's office or the offices of the privately owned/managed site for the reexamination may make a reasonable accommodation to have the interview conducted at the person's home, which shall be approved if it is verified that the person has a disability that prevents him/her from going to the HABC office or the offices of the privately owned/managed site.
- Verification that the person has a disability or that the requested accommodation will address the disability may be required if the disability is not obvious.
- If the family is unable to attend the first scheduled interview, the family must contact HABC or the privately owned/managed site at least 10 working days before the interview is scheduled to occur to schedule a new appointment.
- If the family does not appear for the reexamination interview and has not rescheduled the interview with HABC or the privately owned/managed site, HABC or the privately owned/managed site will schedule a second appointment. HABC will provide the family with 10 working days advance notice of the rescheduled appointment. HABC will not reschedule a reexamination appointment more than twice except as a reasonable accommodation.

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- Families must contact HABC if they are unable to attend the second scheduled appointment. If the family fails to appear for the second appointment HABC or the privately owned/managed site will issue a notice of lease termination.
- Exceptions to these policies may be made by the HABC Asset Manager or the property manager at the privately owned/managed site if the family provides documentation of a good cause reason that prevented them from canceling or attending the appointment.
- All adult household members will be required to attend the reexamination interview and sign the Personal Declaration and Continued Occupancy Declaration. If the head of household is unable to attend the interview, the appointment will be canceled.
- Any required documents or information the family is unable to provide at the time of interview must be provided within 5 working days from the date of the interview. If the family is unable to obtain or supply the information within the required time frame, the family must request an extension.
- Residents are not required to report when a family member turns 18 years of age between regular reexaminations. However, if a family member will be 18 years of age on or before the household's reexamination effective date, they must attend the reexamination appointment

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Effective Date Of Annual Reexamination Results

HABC ACOP, Section 14.12

- If, because of a regularly scheduled reexamination, the resident rent increases, a 30-day notice will be mailed to the family prior to the reexamination effective date.
- If less than 30 calendar days are remaining before the effective date, the resident rent increase will be effective on the first day of the month following the 30-day notice.
- If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, the increase in rent will be effective on the scheduled effective date.
- In general, a decrease in the participant rent that results from a regular reexamination will take effect on the family's anniversary date. Decreases in rent will not be applied retroactively due to family-caused delays.
- If the family causes a delay so that the processing of the reexamination is not complete by the regular reexamination effective date, any decrease in rent will be effective on the first day of the month following completion of the reexamination processing by HABC or the privately owned/managed site.

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Learning Activity 4-1: Regular Reexams

Instructions: Answer the following questions about regular reexams.

1. Angela Adams lives alone. Her only sources of income are $550 per month in Social Security and $100 per month in SSI. How frequently is a reexam conducted?
   a. Annually
   b. Every 2 years
   c. Every 3 years

2. Maggie Mead is head of household. She has a job where she earns $35,000 per year. Her 25-year-old son lives with her. He is zero income. How frequently is a reexam conducted?
   a. Annually
   b. Every 2 years
   c. Every 3 years

3. Walter Wallace is head of household. His only source of income is $15,000 per year from a pension. His wife Alma has a job earning $25,000 per year. How frequently is a reexam conducted?
   a. Annually
   b. Every 2 years
   c. Every 3 years

4. Shawn Hanson failed to provide documents timely for her annual reexam that was supposed to be effective 5/1/25. He provided documents on 4/15/25. His rent is going to increase because of the reexam. When is the increase effective?
   a. 4/15/25
   b. 5/1/25
   c. 6/1/25

5. Latasha Stevens failed to provide documents timely for her annual reexam that was supposed to be effective 4/1/25. She provided documents on 4/3/25. HABC completed the reexam on 4/25/25. Her rent is going to decrease because of the reexam. When is the decrease effective?
   a. 4/1/25
   b. 4/13/25
   c. 5/1/25

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FAMILY CHOICE OF RENTS

24 CFR 960.253

- Encourages and rewards employment and self-sufficiency.
- PHAs must provide residents with enough information to make an informed choice.
- The PHA must document that families residing in public housing units are provided the choice annually whether to pay income-based or flat rent.
  - PHAs should keep records documenting the dollar amounts of tenant rent under each option.
  - HABC uses the Rent Choice Form to inform families of their choice of rents.

24 CFR 960.253(a)(3)

  - Non-public housing over-income (NPHOI) families, as defined at 24 CFR 960.102(b), must pay the alternative non-public housing rent, as applicable and are not given a choice between income-based and flat rent.
- If the family choses a flat rent for the previous year, HABC or the privately owned/managed site will provide the amount of income-based rent for only the year HABC or the privately owned/managed site conducts an income reexamination or, during the intervening years, only if the family specifically requests income recalculation and submits updated income information.
- For families that are paying flat rents, the PHA will review the income of such family at least once every three years.
  - Except for families a PHA determines exceed the over-income limit, after which the PHA must follow the income and examination requirements under 24 CFR 960.507(c).

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Notice PIH 2023-03

- That is, if the PHA has a policy to do recertifications for flat rent families every three years, if the family goes over income, the PHA must review the family's income at 12 and 24 months-the three-year policy would not apply for such families.

HABC ACOP, Section 14.13

- As flat rent updates will be determined annually, based on changes to fair market rents (FMR), and resident rent updates will occur on the annual rent update anniversary, there may be times that residents on flat rent are paying more or less than 80% of the FMR, depending on the change to the FMR.
- Flat rent increases will be limited so that no family on flat rent will have an increase more than 35% of the family's existing rent amount due to the increase in FMR.
- If the family has chosen flat rent, his/her rent shall be adjusted at the next annual flat rent update or regular reexamination rather than at the point the flat rent may change. At the time of the annual flat rent update or regular reexamination, the family will be given the choice of changing to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for the family's unit.

24 CFR 960.253(g)

SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES

- If the family has elected to pay the PHA’s flat rent, the PHA must immediately allow the family to pay the income-based rent if family is unable to pay the flat rent because of hardship.
- Interim rent reduction should occur no later than the first of the month following the month the family reported the hardship.

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HABC ACOP, Section 9.5.7

- Hardship includes:
  - Income of the family has decrease in income that will last 120 days because of changed circumstances, loss of or reduction of employment, death in the family, and reduction in or loss of income of other assistance that would affect rent calculation
  - An increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items that would affect rent calculation
  - Other situations as determined by the HABC as appropriate because they would affect rent calculation
- When a family adds an adult to the household, and the income of the new adult results in a TTP that's greater than the flat rent, HABC caps the rent at the applicable flat rent.
- At the family's next regular reexam, the family will be provided with a choice of income based or flat rent.

Section 4.2 Interim Reexaminations

CFR 960.257(d)

- Interim examinations must be conducted in accordance with policies and HUD regulations.
- The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition.

CFR 5.609(c)(1)

- The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination.

Changes in Family Composition

- PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens.

HABC ACOP, Section 14.18

- Families must report all changes in household composition to HABC or the privately owned/managed site within 10 working days from the date of the change. Such changes include additions due to birth, adoption, and court-awarded custody.
- The family must obtain approval from HABC or the privately owned/managed site prior to all other additions to the household. The change in family composition must be submitted in writing.

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- Following receipt of a family's request for addition of a household member, HABC or the privately owned/managed site will conduct a pre-admission screening, including the criminal history report, of the proposed new member. HABC or the privately owned/managed site will not allow the addition of a new family or household member unless the individual meets the applicable screening criteria and documentation requirements as described in Chapter 4: Eligibility for Admission. Only new members approved by HABC or the privately owned/managed sites will be added to the household.

- HABC and the privately owned/managed sites will conduct an interim reexamination and recalculate rent for all changes in family and household composition that occur between regular reexaminations and annual updates. The head of household shall provide HABC or the privately owned/managed site with all income documentation for the new household member.

MTW Policy
• Upon HUD approval, when a family adds an adult to the household, and where the income from the new adult results in a TTP which is greater than the flat rent, HABC will cap the rent at the applicable flat rent. At the family's next regular reexamination, the family will be provided with a choice of income based or flat rent.

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- HABC or the privately owned/managed site will process an increase in rent when the household size increases due to the addition of a new family member with earned or unearned income. However, income information for existing family members will NOT be updated when there is an interim change in family composition, except where a child is added and the state assistance payment changes. HABC will verify the state assistance and include the new amount in the calculation of income and rent.
- HABC or the privately owned/managed site will process a decrease in rent when the household size decreases due to the removal of a family member with earned or unearned income.
- Additions to the household subject to applicable screening:
  - Any person 18 or older the resident proposes to add to the lease.
  - Resident is awarded custody of a child who is 14 or older.
  - Children who are 14 and older are added through a kinship care arrangement.
  - Resident desires to add a new family member to the lease, a live-in aide, or a foster child(ren).
  - A unit is occupied by a remaining family member(s) under age 18 (not an emancipated minor) and an adult who was not a member of the original household requests permission to take over as the head of household.

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- Additions to the household not subject to screening:
  - Children born to a family member.
  - Children for whom court-awarded custody is provided, if the child is under the age of 14; and
  - Legal adoptions of minors.

NEW FAMILY MEMBERS NOT REQUIRING PRIOR APPROVAL

- The addition of a family member because of birth, adoption, or court-awarded custody does not require prior approval from HABC or the privately owned/managed site; however, the family is required to notify HABC or the privately owned/managed site of the addition within 10 working days of the occurrence.

NEW FAMILY MEMBERS REQUIRING APPROVAL

- The family must inform HABC or the privately owned/managed site and obtain approval from HABC or the privately owned/managed site for additional family members, other than additions due to birth, adoption, and court-awarded custody, before the new member occupies the unit. Only new members approved by HABC or the privately owned/managed site will be added to the household.
- HABC or the privately owned/managed site will not approve the addition of family members other than by birth, adoption, court-awarded custody, or marriage/interdependent relationship where the occupancy standards would require a larger size unit, except as a reasonable accommodation. Exceptions will be reviewed, and determinations made on a case-by-case basis.

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- Residents who fail to notify HABC or the privately owned/managed sites of additions to the household, or who permit persons to join the household without undergoing screening, are in violation of the lease. Such persons are considered to be unauthorized occupants by HABC or the privately owned/managed sites and the entire household will be subject to eviction.

Departure of a Family or Household Member

- If a family or household member ceases to reside in the unit, the family must inform HABC or the privately owned/managed site within 10 working days of the occurrence. This notification requirement includes removal of a live-in aide, foster child, or foster adult. The household must complete a certification of removal and provide verification of the removal, i.e., new address for the household member being removed, death certificate etc.
- These individuals may not be added back to the lease and must apply as a new applicant for placement on the HABC public housing waiting list.

Change in Family Size & Transfer

- HABC will initiate a unit transfer, if needed under the Occupancy Guidelines, for additions to the family in the following cases:
  - Addition of a minor who is a member of the family who had been living elsewhere.
  - Addition of a live-in aide approved by HABC or the privately owned/managed site.
  - Addition due to birth, adoption, or court-awarded custody.

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- If a change due to birth, adoption, court-awarded custody, or need for a live-in aide requires a larger size unit due to overcrowding, the resident will be placed on the appropriate transfer waiting list for the larger unit and transferred to an appropriately sized unit when the resident reaches the top of the waiting list, and an appropriately sized unit becomes available.
- Transfers due to over-housing or under-housing conditions caused by the addition or removal of household members will be handled in accordance with HABC's Transfer Policy.

INTERIM REPORTING

- Interim reexams must be conducted within a reasonable period of time.
  - Generally, no longer than 30 days after the income change is reported, provided the family cooperates and provides timely supporting documentation
- Families paying income-based and flat rents are not required to report increases in income or assets between regulation recertifications.
  - Except for zero income and minimal income individuals

HABC ACOP, Section 14.14

- Families must report changes below within 10 working days of the change and HABC will process an interim rent change when any of the following occur:
  - Zero or minimal income family member receives an increase in income/benefits
  - Change in family composition (add or remove)
  - At the end of Earned Income Disregard (EID) period

- If a household reports a change that it was not required to make which will result in an increase in rent, HABC will place the information in the file; however, HABC will not process an interim increase in rent.
    - There is one exception to this policy where FSS families are concerned. Upon request from a family participating in the Family Self-Sufficiency Program (FSS), if the family reports an increase in income between regular reexaminations and requests an interim reexamination, HABC will process the interim reexamination so that the family can take advantage of the escrow deposit feature of the FSS program. The family will also experience an increase in rent because of the increase in income.

MTW Policy
• Families paying income-based and flat rents are not required to report increases in income or assets between regular reexaminations. • HABC and the privately owned/managed sites will not process rent adjustments resulting from these increases in income until the next regularly scheduled reexamination, except in certain cases as described in this ACOP.

- If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation within 5 working days from the date of the request, it will be considered untimely reporting.
- Generally, the HOH and the person requesting the change are required to attend an interview for an interim reexam.

OPTIONAL INTERIM REPORTING

- Families may report the changes outlined below.
- HABC may process an interim rent change when any of the following occur:
  - Decrease in income
  - Increase in allowable expenses

LIMIT ON VOLUNTARY INTERIM RECERTIFICATIONS

HABC ACOP, Section 14.15

- HABC limits the number of voluntary interim reexaminations between regular reexaminations as outlined below. Required interim reexaminations will not count against the limit on voluntary interim reexaminations, i.e., interim reexaminations required for changes in family composition. Elderly/disabled families and families in the FSS program are exempt from the limit on interim reexaminations.
- HABC or the privately owned/managed site will process interim rent adjustments unless HABC or the privately owned/managed site confirms that the decrease in income will last less than 30 calendar days and/or if the family has exceeded the MTW limit on voluntary interim rent reductions.
- Any information, document, or signature needed from the family that is needed to verify the change must be provided within 5 working days from the date of the HABC request.

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- The limit on interim reexaminations will be applied as follows:
  - One voluntary interim reexamination between annual reexaminations for families with an annual reexamination frequency.
  - Two voluntary interim reexaminations between biennial reexaminations for families on a biennial reexamination frequency.
  - Three voluntary interim reexaminations between triennial reexaminations for families on a triennial reexamination frequency.

HARDSHIP POLICY

- HABC has a hardship policy whereby, if a family has exceeded the limit on interim rent reductions, the family can request a hardship interim reexamination where the loss of income or increase in applicable unreimbursed expenses represents a 20% reduction in adjusted income and where the loss of income or increase in unreimbursed medical or childcare expenses are beyond the family's control.
- The rent for a family who was granted an additional rent reduction, as a hardship, will remain in place until the next required or scheduled reexamination.
- HABC will notify the family, in writing, of the change in determining adjusted income and rent resulting from the hardship. Such notice will include the adjusted income, family rent, hardship start date and hardship expiration date (where applicable).

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FAMILY REPORTING

HABC ACOP, Section 14.16

- The standard for timely reporting is within 10 working days from the date of the change. This standard applies to required and optional reporting. For example, if a resident loses his job on April 1st, timely reporting of the job loss will be 10 working days from April 1st.
- If the change is not reported within the required time period, or if the family fails to provide signatures, certifications, or documentation within the required time frame, it will be considered untimely reporting.
- Families are required to submit interim changes in writing. Generally, the head of household and the person requesting the change will be required to attend an interview for an interim reexamination.
- Based on the type of change reported, HABC or the privately owned/managed site will determine the documentation the family will be required to submit.
- Any information, document, or signature that is needed from the family to verify the change must be provided within 5 working days from the date HABC or the privately owned/managed site made the request.
- This time frame may be extended by HABC or the privately owned/managed site for good cause. HABC and the privately owned/managed sites will accept required documentation by mail, by fax, electronic mail (email) or in person.
- HABC or the privately owned/managed site may conduct the interim reexamination by mail as a reasonable accommodation when requested.

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EFFECTIVE DATE OF CHANGES

HABC ACOP, Section 14.20

- The utility allowance that applies to a household when an interim reexamination takes place will be the same utility allowance that was in effect at the last regular reexamination.

RENT INCREASE

- Rent increases will be effective the first of the months following the 30-day notice.

MTW Policy
• If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. • The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in this ACOP or be required to make a lump sum payment.

RENT DECREASE

- Rent decreases will be effective on the first day of the first month after the date of the actual change leading to the interim reexamination of family income; however, if the family causes a delay in obtaining information to process the rent decrease, the rent decrease will be effective on the first day of the first month following completion of the reexamination.

- If the change is not reported timely, any resulting rent decrease will be implemented no later than the first rent period following completion of the reexamination. HABC or the privately owned/managed site may apply rent decreases retroactively; however, administrative approval is required for an retro request for more than 60 days. A retroactive rent decrease may not be applied prior to the later of the first of the month following:
  - The date of the change leading to the interim reexamination of family income; or
  - The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).
- In cases where, through no fault of the resident, the change cannot be verified until after the date the change would have become effective, the change will be made retroactively to the first of the month following the date of the change leading to the interim reexamination of family.

DELAYS IN PROCESSING REEXAMINATIONS CAUSED BY HABC OR THE PRIVATELY OWNED/MANAGED SITES

- If HABC or the privately owned/managed site causes the delay in the timely processing of the reexamination:
  - In the case of a rent increase, the effective date will be the first of the month following 30 calendar days' notice to the resident; and
  - In the case of a rent decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount of overpaid rent.

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Learning Activity 4-2: Interim Reexams

Instructions: Answer the following questions about interim reexams.

1. When do changes in household composition need to be reported?
   a. Within 10 business days of the change
   b. The first of the month following the change
   c. At the family's next regular reexam

2. Greg Garland is head of household. His sister Gina lives with him. Greg works full-time and his sister is zero income. He reports timely that his sister is moving out of his unit. At the same time, he reports that he's gotten a $0.50 per hour raise. What does HABC do?
   a. Process an interim to remove Gina from the unit and increase Greg's income to account for his raise
   b. Process an interim to remove Gina from the household but do not change Greg's income
   c. Wait until Greg's next regular reexam to remove Gina from the household composition

3. When a new head of household is added to the unit, HABC establishes a new reexam anniversary date for the household.
   a. True
   b. False

4. At her last regular reexam, Corey Ladue was working at Chipotle. She just got a $2 per hour raise at her job. She reports the change to HABC within 10 working days. What does HABC do?
   a. Conduct an interim that's effective the first of the month after 30-day notice of the increase
   b. Change her regular reexam frequency to triennial
   c. Place the information in her file but not conduct an interim

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5. Goerge Gomez is zero income. He got a job on 10/1/24 but failed to report this to HABC within 10 working days. He reports the change on 11/5/24 and provides documents. When is the increase effective?
    a. Since he should have reported the change by 10/16/24, with 30-day notice of the increase, it would have been effective 12/1/24
    b. Since he reported the change 11/5/24, with 30-day notice of the increase, it would be effective 1/1/25
    c. Retroactive to 10/1/24

6. Min Kim lost her job on 5/5/25. She reported the change within 10 working days. When is the decrease effective?
    a. 5/1/25
    b. 6/1/25
    c. 7/1/25

7. Carlo Hudgen's only source of income is a regular contribution from his mom totally $1,200 per year. He gets a new job effective 4/1/25. Does Carlo need to report the change?
    a. Yes, because he's minimal income
    b. No, because increases in earned income do not need to be reported

8. Amber Lee is on a biennial reexam schedule. Her annual was 2/1/25. HABC conducts an interim for her on 6/1/25. She may not request another interim until 1/1/26 or later.
    a. True, she may only request on interim per year
    b. False, she may request an interim at any time between regular reexams

9. Greta Green in on a biennial reexam schedule and has already had two interims. She requests a hardship for an additional interim because she was working full time and earning $40,000 per year but she just lost her job. She provides documentation that she was laid off because her company went out of business. Does HABC conduct an interim?
    a. Yes, provided the circumstances last 30 days or more
    b. No, families on biennial reexam schedules may only have two interims between regular reexams

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Section 4.3 GROW Program

- The Get Ready for Opportunities to Work (GROW) program is a new program designed to build on and enhance HABC's self-sufficiency initiatives. As a condition of continued occupancy, unemployed, work-able Public Housing residents must agree to participate in the GROW program with the ultimate goal of sustained employment. To help ensure residents' success, HABC will provide GROW participants with career counseling, service navigation and access to HABC and partner programs.
- The GROW program was approved by HUD in HABC's 2024 MTW Plan. Implementation of the GROW program is anticipated in the first quarter of 2025. Residents will receive written information on GROW at least 60 days prior to implementation.

GROW Admissions Policy

- As part of screening process, each family is required to attend Tenant Responsibility Training at which time HABC will review general GROW program policies. Families will be informed of the requirement to sign a GROW program lease rider and that failure to participate in and adhere to the GROW program requirements will constitute a violation of the lease and may result in lease termination.
- Additionally, during leasing, HABC will identify the current work-able, unemployed adult family members who would be required to participate in and adhere to GROW program requirements, including attending a GROW program orientation, entering into a GROW program contract and developing a GROW program Employment Development Plan (EDP).

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- Within thirty days of move-in, non-exempt family members, who do not meet the GROW program requirements, will be scheduled to attend a required orientation with HABC's ORS. ORS will meet with the family member to review needs and challenges, to develop an EDP and, execute a GROW program contact. Non-exempt family members who do not meet the GROW requirement at lease-up will be required to come into compliance within 180 days from the effective date of the GROW contract.

GROW Continued Occupancy Policy

- Once the GROW program Lease Rider is executed, existing public housing families are required to adhere to the GROW program Continued Occupancy Policy. Throughout the term of the lease, *all family members aged 18-54 who are not exempt* from the GROW program requirement must be:
  - Working 20 hours or more per week for at least 9 months per year; or,
  - Enrolled in a HABC-approved job training; or,
  - Enrolled in a HABC-approved education program.

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- Existing families, at their next reexamination after GROW program implementation, will be required to execute a GROW program lease rider and be screened to identify any non-exempt family member who is not in compliance with GROW program requirements. Within thirty days of the reexamination interview, non-exempt, non-compliant family members will be scheduled to attend a required orientation on the GROW program which will be provided by ORS. Failure to attend a scheduled GROW orientation session, after given two opportunities to attend, is a violation of the lease and will result in removal from the household and for single person households, lease termination.

- Subsequent to the orientation session, ORS will meet with family member to review needs and challenges, to develop an EDP and execute a GROW program contact. Non-exempt family members who do not meet GROW program requirements will be required to work with the ORS department and come into compliance within 180 days from the effective date of the GROW contract.

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EXEMPTIONS FROM THE GROW CONTINUED OCCUPANCY POLICY

- The GROW program Continued Occupancy Policy does not apply to some family members. Family members who fall into one or more of the following categories are exempt from the GROW Continued Occupancy Policy:
  - Persons with disabilities, as defined by 24 CFR Parts 8.3 and 100.201
  - Persons aged 55 and over
  - Children under age 18
  - A parent/legal guardian of at least one child under the age of 4 in the household. Once the child reaches age 4, the parent/legal guardian is no longer exempt.
  - A family member, who is the sole caregiver for an elderly/disabled family member in the household. A sole caregiver is a family member who is essential to the care and well-being of an elderly or disabled family member as verified by a knowledgeable medical provider. When the disabled or elderly household member no longer resides in the unit, the caregiving adult household member is no longer exempt.
  - Non-Public Housing Over-Income families

VERIFICATION OF CONTINUED OCCUPANCY GROW POLICY COMPLIANCE

- HABC Housing Operations staff will verify employment and/or other approved activities to confirm continued compliance with the GROW Continued Occupancy Policy at each family's regular reexamination. HABC will follow established procedures to verify employment and participation in other approved activities, where applicable. HABC may obtain verification of enrollment in job training or education programs directly from ORS or request that the family provide third-party verification.

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- HABC Housing Operations staff will refer family members, who are not in compliance with the GROW program requirements, to the ORS. Any non-exempt family member who does not meet the GROW requirement at reexamination, will be given 180 days from the GROW contract effective date to comply. See also policies on Compliance.
- All non-exempt family members are required to comply with the policy. Non-compliance by any non-exempt family member shall be considered a violation of lease and program requirements.

INTERIM CHANGES

- When a family member reports a change in circumstances, i.e. leaves or loses a job or leaves an education/training program, which impacts GROW program requirements, HABC will review the change and inform the family member and head of household of instances where they are not in compliance with GROW program requirements. Where the interim change provides that a non-exempt family member no longer complies with the requirement, HABC Housing Operations staff will refer applicable family members to ORS. The non-compliant family member will be given 90 days from the GROW contract effective date to comply. Exceptions related to compliance time frames will be made on a case-by-case basis by ORS staff.

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APPROVED EDUCATION AND JOB TRAINING PROGRAMS

- Approved education and job training includes:
  - Full or part-time enrollment at an accredited college, university, or institution of higher learning
  - Education or job training programs to which the resident was referred by HABC's ORS
  - Job training programs including:
    - Trade, apprentice, or vocational training program
    - Job readiness and skills development training
  - Education programs including:
    - GED or diploma program
    - Secondary education program
    - Adult Basic Education (ABE) program
    - English as a second language or English proficiency classes
- HABC may approve additional job training and education programs above on a case-by-case basis. HABC will consider the program's objective, length, and the number of hours required for participation.
- A family member who is not currently enrolled, but who has been accepted into an education or job training program, must provide proof that the program will begin within 60 days in order to meet the GROW requirement. If a family member reports an education or job training program not currently administered or approved by HABC, ORS staff will review the program curriculum and make a determination as to whether it will be approved as a vehicle to meet the GROW requirement.

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- Upon completion of an education or job training program, the family member will be given 120 days to secure employment.

HARDSHIP

- A family may request a temporary hardship exemption from the GROW Continued Occupancy Policy for one or more family members if they:
  - Have a short term-medical issue or disability
  - Are a victim of domestic violence
  - Have emergency public safety concerns
  - Have a childcare related issue
  - Have a transportation related issue
- To qualify for the hardship exemption, a family must submit the request for hardship exemption in writing. Approval is subject to applicable verification requirements. If approved, the period for the temporary hardship exemption will be not exceed 90 days. A family can request an extension to the 90-day period if the hardship condition continues and can be verified. HABC will make determinations on extensions to temporary hardship on a case-by-case basis with approval required by the Workforce Development Program Administrator or his/her designee.
- Information that is obtained regarding medical, disability or public safety hardships will be used or disclosed only for purposes relating directly to the hardship request. All information considered “private data on individuals” will be handled in compliance HABC's policies on Privacy.

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COMPLIANCE

- HABC will verify employment, education and/or job training status for all non-exempt family members at admission and at each regular reexamination. HABC will verify this information in accordance with the requirements and methods outlined in HABC's policies and procedures on verification.
- HABC's objective is to help families succeed in meeting Grow program requirements, and HABC will exercise flexibility in implementing the requirement. If a non-exempt family member is not in compliance with GROW program requirements, HABC will refer the family member to the ORS, who will conduct an assessment and prepare for execution, a GROW contract and an EDP for the family member. Family members under a GROW contract will be required to provide documentation that they are engaged in an eligible work requirement activity.
- If the family does not comply by the end of the contract period, HABC may proceed with lease enforcement including removal of the non-compliant family member from the household or lease termination for single person households. However, HABC may extend the contract period and defer lease enforcement if the family member is actively working with the ORS to remove barriers to compliance. In such cases, Housing Operations staff will obtain verification directly from the ORS that the family member is engaged in barrier removal activity.

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PARTNERS

- To ensure the success of the GROW program, HABC has established agreements with partner agencies to provide services to GROW program participants to assist them with the following:
  - Employment search & career counseling
  - Education guidance and planning
  - GED services
  - Career assessment
  - Workforce development
  - Assistance with applications for education financial aid
  - Assistance with career programs, continuing studies, vocational/technical schools and apprenticeships
  - Financial management

COORDINATION WITH CSSR

- Upon implementation of the Getting Ready for Opportunities to Work (WORK) program, HABC will coordinate the timeline for compliance with the CSSR and GROW requirements. Specifically, if a non-exempt family member is subject to the CSSR and GROW, they will be referred to resident services who will address both the CSSR and GROW requirement. If within 180 days of the GROW contract effective date, the family member gets a job (at least 20 hours per week) or enrolls in an approved education, program, the family member will meet the requirement for exemption from CSSR due to enrollment in "work activities."

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COORDINATION WITH FSS

- Upon implementation of the GROW program, non-exempt public housing residents who are not working or enrolled in an education/job training program and who are under an FSS Contract of Participation, will have their FSS CoP timeline updated on employment/job training/education to reflect the GROW program requirements. Additionally, non-exempt public housing residents who are not working or enrolled in an education/job training program may join FSS as part of their GROW program EDP; however, their FSS CoP timeline for employment/education/job training will reflect the GROW program requirements.

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Section 4.4 Community Service

CFR 960, Subpart F

Annual Reexaminations

CFR 960.605(c)(3)

- PHAs must determine annually whether public housing residents are in compliance with the community service requirement.

Overview of the Community Service Requirement

CFR 960.603

- Under Section 12 of the U.S. Housing Act of 1937, as amended by the Quality Housing and Work Responsibility Act of 1998 (the Reform Act), every nonexempt resident of public housing must fulfill a community service requirement.

CFR 960.605
CFR 903.7(l)
Notice PIH 2015-12

  - PHAs must describe the community service requirement in detail in their agency plans and ACOP.

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

CFR 960.603(a)

- The community service requirement applies to all adult residents of public housing except exempt individuals.

CFR 960.603(a)

- To fulfill the community service requirement, nonexempt adult residents must contribute 8 hours a month doing one or a combination of the following:
  - Engaging in community service activities
  - Participating in an economic self-sufficiency program

CFR 5.603(b)

  - An economic self-sufficiency program is defined as any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Notice PIH 2015-12

- Community service may be completed at eight hours each month or may be aggregated across a year.
  - Any blocking of hours is acceptable as long as 96 hours is completed by annual recertification

Exemptions

CFR 960.601(b)

- Exemptions to the requirement to perform community service include adult family members in any of the following categories:
  - Elderly persons (62 years or older);
  - Individuals who are blind or disabled, as defined under the law, *and* who certify that they are, as a result of their blindness or disability, unable to comply with the requirement; and
  - Primary caretakers of such blind or disabled individuals

Notice PIH 2003-17; U.S. Housing Act (42 U.S.C. 1437j)

- Individuals who are engaged in work activities 20 hours per week, which include:
  - Unsubsidized employment
  - Subsidized private-sector employment
  - Subsidized public-sector employment
  - Work experience (including work associated with refurbishing publicly assisted housing) if sufficient private-sector employment is not available
  - On-the-job training
  - Job search and job readiness assistance
  - Community service programs
  - Vocational educational training (not to exceed 12 months with respect to any individual)
  - Job skills training directly related to employment
  - Education directly related to employment (if the individual has not received a high school diploma or a high school equivalency certificate)
  - Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalency (if the individual has not received a high school diploma or a high school equivalency certificate)
- Individuals able to meet requirements under a state program funded under the Social Security Act or by any other program in Maryland, including the state's welfare-to-work program
- A member of a family receiving assistance, benefits, or services under a state program funded under Part A of Title IV of the Social Security Act, or under any other welfare program of the state, including the state's welfare-to-work program, and including SNAP
  - The family member cannot have been found to be in noncompliance with the program.
  - A member of a non-public housing over-income (NPHOI) family

Admission and Occupancy Final Rule, Federal Register 3/29/00

- Because exemptions to the community service requirement are statutory, HUD does not have the authority to approve additional exemptions; therefore, PHAs cannot approve additional exemptions, either.

PHA Responsibilities

CFR 960.605(a)

- Each PHA must develop a local policy for administration of the community service requirement for public housing residents.

CFR 960.605(c)(2)

- The PHA must give each family a written description of:
  - The community service requirement
  - The process for claiming status as an exempt person and for changing one's status
  - The PHA's process for verifying exempt status

CFR 960.605(c)(2)

- The PHA must notify each family of its determination of which family members are subject to the community service requirement and which members are exempt.

CFR 960.605(c)(3)
CFR 960.607(a)
Notice PIH 2017-06

- The PHA must review family compliance with service requirements and must verify compliance annually at least 30 days before the end of the 12-month lease term.
- The PHA may accept self-certification of compliance or may require certification from a third party.
  - The PHA must validate a sample of self-certifications by contacting the third party for whom the resident performed community service.
  - The PHA must select a random, statistically valid sample.
- PHAs must verify exempt status annually.

Notice PIH 2015-12

- Remember, any adults subsequently added to the lease or family members who come of age are also responsible for signing a certification (Attachment A of Notice PIH 2015-12) to certify that they have read the PHA's policy and are aware of the consequences of noncompliance with the requirement.

CFR 960.605(c)(4)

- The PHA must retain reasonable documentation of fulfillment of the requirement or verification of exemption in participant files.

CFR 960.609

- No PHA may substitute community service activity performed by a resident for work ordinarily performed by a PHA employee.

Family Responsibilities

Notice PIH 2015-12

- At lease execution or reexamination, all adult members of a resident family must:
  - Provide documentation that they qualify for an exemption, if they claim to be exempt from the community service requirement
  - Sign a certification that they have received and read the PHA's policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease
- At each annual reexamination, nonexempt family members must present documentation of the community service activities performed over the previous 12 months.

HABC ACOP, Section 19.10.1

- If an exempt individual becomes non-exempt during the lease term, it is the household's responsibility to report this change to HABC or the privately owned/managed site within 10 working days.

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- After reporting such a change, or HABC or the privately owned/managed site determining such a change is necessary, HABC or the privately owned/managed site will provide written notice of the effective date of the CSSR requirement, a list of agencies in the community that provide volunteer and/or training opportunities or other activities that qualify, as well as a documentation form on which the household member may record the activities performed and number of hours contributed.
- The effective date of the community service requirement will be the first of the following month.
- If a non-exempt person becomes exempt before the next regular reexam, it is the household's responsibility to report this change to HABC or the privately owned/managed site within 10 working days. Any claim of exemption will be verified by HABC or the privately owned/managed site.
- After reporting such a change, or HABC or the privately owned/managed site determining such a change is necessary, HABC or the privately owned/managed site will provide the household written notice that the household member is no longer subject to the community service requirement.
- The exemption will be effective immediately.

Noncompliance

CFR 960.603(b)

- Violation of the community service requirement is grounds for nonrenewal of the lease at the end of the 12-month lease term.
  - The lease is automatically renewable except for failure to comply with this requirement and for families determined to be over the income limit for 24 consecutive months.

CFR 966.53(c)
Notice PIH 2015-12

- PHAs are required to initiate the elements of due process against households failing to comply with lease requirements, including the community service requirement. These elements are described in 24 CFR 966.53(c) and Notice PIH 2015-12.

CFR 960.607(b)(2)

- If a PHA determines that a family member has failed to fulfill the community service requirement, the PHA must notify the tenant.
- The notice must:
  - Briefly describe the noncompliance
  - State that the PHA will not renew the tenant's lease at the end of the 12-month lease term unless:
    - The tenant and any noncompliant family members enter into a written agreement with the PHA to cure the noncompliance and do, in fact, cure the noncompliance
    - The family provides written assurance satisfactory to the PHA that the noncompliant family member no longer resides in the unit
  - State that the tenant may request a grievance hearing on the PHA's determination and may exercise any available judicial remedy to seek timely redress for nonrenewal of the lease because of the determination

- For more information on terminations due to noncompliance, see Section 1 of Chapter 6.

CFR 960.607(c)

- If the tenant or any other family member has violated the community service requirement, the PHA may not renew the lease upon expiration of the term unless:
  - The tenant and any other noncompliant family member enter into a written agreement with the PHA to cure the noncompliance by making up the required hours over the 12-month term of the new lease
  - All other members of the family who are subject to the requirement are currently complying with it or are no longer residing in the unit

Learning Activity 4-3: Community Service Quiz

1. Residents paying a flat or ceiling rent are automatically exempt from the community service requirement.
   a. True
   b. False

2. Choose all of the activities below that may be used to fulfill a resident's community service requirement.
   a. Volunteering at a child's school
   b. Participating in a resident council activity
   c. Volunteering at a local child care center
   d. Attending a drug and alcohol counseling session
   e. Volunteering at the public housing complex
   f. Attending a budgeting class
   g. Participating in a political activity
   h. Attending English classes
   i. Volunteering with a local youth organization
   j. Volunteering at a local church
   k. Reading to kids at the local library

3. Public housing residents who fail to comply with the community service requirement will automatically have their leases terminated at lease renewal time.
   a. True
   b. False

4. Public housing residents may combine community service and self-sufficiency activities to meet the eight-hour-per-month requirement.
   a. True
   b. False

5. Political and religious activities are specifically prohibited for fulfilling the community service requirement.
   a. True
   b. False

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6. A public housing resident meets her community service requirement, but her nineteen-year-old daughter, who does not qualify for an exemption, has not fulfilled the community service requirement. At lease renewal the PHA should:
    a. Immediately terminate the lease
    b. Renew the lease, since the head of the household fulfilled the community service requirement
    c. Notify the family that not all household members met the community service requirement and offer the family an opportunity to make up the community service during the next recertification period, in lieu of termination of the lease

Section 4.5 Transfer Policy

- An annual or interim reexamination may result in the family being required to transfer or requesting a transfer.

CFR 960.202(a)(2)(v)

- PHAs must establish a transfer policy, as part of their admissions and continued occupancy policy.
- The income limits do not apply to transfers.

Industry Practice

- The transfer policy should balance the need to avoid overcrowding or underutilization of the space.

HABC Transfer Policies

- Chapter 10 of HABC's ACOP discusses transfers.
- Within HABC's policy, the “losing development” refers to the development/unit from which the family is moving and the “receiving development” refers to the development/unit to which the family is transferring. Losing and receiving developments include privately owned/managed sites with RAD units, LTA units, and units with public housing subsidy.

HABC ACOP, Section 10.2

- HABC's policy provides for resident transfers, within and/or between HABC public housing sites and the privately owned/managed sites, that are RAD sites or have LTA units or public housing units for the following reasons:
  - To abate dangerous and/or substandard conditions within the unit that cannot otherwise be addressed.
  - Because the resident is an intimidated crime victim and/or an intimidated crime witness as defined in this chapter.
  - Because the resident is a crime victim as defined under the Violence Against Women Act, as amended.

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- Because the resident has an approved reasonable accommodation transfer request to address a disability.
- To accommodate resident families that are determined to be over- or under-housed because of their family size or composition.
- Because the resident is living in a unit that has been certified as meeting the Uniform Federal Accessibility Standards (UFAS) for wheelchair accessibility or as near UFAS compliant and no one in the household needs the accessibility features in the unit.
- To permit rehabilitation of the resident's unit.
- Because the unit is scheduled for disposition and/or demolition.
- To offer standard alternative accommodations when repairs to the unit cannot be made within a reasonable time.
- Because the resident is living in a Low-Income Housing Tax Credit unit and no longer meets the income eligibility requirements for the unit.
- Pursuant to a memorandum of understanding between the resident and HABC.

ELIGIBILITY FOR TRANSFERS

HABC ACOP, Section 10.3

- To be determined eligible for a transfer initiated by residents, residents must submit the required documentation to HABC to substantiate their requests and must be in good standing with HABC at the time of transfer. When a resident who is not in good standing has been approved for a transfer due to an emergency, immediate need, reasonable accommodation, demolition, disposition, or because the resident is in an accessible unit and no one in the household needs the features of the unit, HABC may require the resident to enter a memorandum of understanding before allowing the resident to transfer.

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- A resident is in good standing when:
  - A resident is current with rent;
  - There are no current Notice(s) of Lease Termination, or the outcome of any Notice of Lease Termination is pending;
  - The resident's household is NOT the subject of a pending lease enforcement investigation;
  - A resident is current on their reexamination;
  - The resident has a good rental history;
  - The resident's household does not have history of disturbances;
  - The resident, a member of the resident's household, or a guest of the resident has NOT damaged the unit; and
  - The resident's household has NOT engaged in criminal activity.
- Residents will not be allowed to transfer when HABC has received judgment or been awarded possession of the unit.
- Residents may not be transferred to a LIHTC site unless they are income eligible.
- Residents may not be transferred to a development with resident-paid utilities unless he/she can obtain utility service.
- HABC may approve a transfer pursuant to an MOU entered between the resident and HABC to resolve a lease termination or other similar issue.

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TYPES OF TRANSFER

- Emergency to Address Health, Safety, and Habitability Issues
  - Emergency transfers to address health, safety, and habitability issues are made because the resident's unit has become uninhabitable because of fire, flood, or other causes; or (b) one or more properties adjacent to the resident's unit is/are obsolete as to physical conditions and may pose a threat to the safety of the resident.
  - When the unit is uninhabitable, the resident will be required to relocate.
  - Relocation of the resident is not a waiver by HABC of its right to terminate the resident's lease where it is determined that the damage was caused by an intentional act, carelessness/or negligence on the part of the resident, a member of the resident's household, guest, or other person under the resident's control.
- Emergency Under the Violence Against Women Act (VAWA)
  - A resident or an immediate family member is a crime victim of domestic violence, dating violence, sexual assault, or stalking;
  - The resident expressly requests the transfer, and the resident reasonably believes that harm or further violence is imminent if the resident remains in the unit or if the sexual assault occurred on the premises during the 90-day period preceding the request for transfer;
  - The resident has complied with all other obligations of the public housing program; and
  - Supporting documentation of the abuse is provided.

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- Residents receiving a VAWA-based Emergency Public Safety transfer may be referred to a domestic violence crime victim services organization if a safe unit is not immediately available.
- Consistent with HABC's Emergency Transfer Plan, HABC may allow residents requesting Emergency VAWA transfers to select up to three specific developments for transfer to protect the resident's safety and security.
- Where three development options are allowed, the applicable developments covered under the CAMPBWL constitute one development selection.

• Emergency to Address an Intimidated Crime Victim & Intimidated Crime Witness (IV/IW)

- An Intimidated Crime Victim (“IV”) - Means a person subject to a credible threat of imminent harm or threatened harm in connection with the person's status as a victim of a criminal act that is planned, threatened, attempted, or completed, who is cooperating with law enforcement.
- An Intimidated Crime Witness (“IW”) - Means a person subject to a credible threat of imminent harm or threatened harm in connection with the person's status as a witness to a crime that is planned, threatened, attempted, or completed, who is cooperating with law enforcement.

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- The following are conditions for which a resident may qualify for an Emergency IV/IW transfer:
  - The household needs to be relocated because of a household member's participation in a witness protection program or to avoid reprisal as a result of providing information to a law enforcement agency.
  - The household's need to relocate has been verified by a local, State or Federal law enforcement agency. The following are examples of the type of documentation required for a family to be considered for this type of transfer: police reports, letter from law enforcement agency describing the situation and the need for a transfer, or court records such as a restraining order.
  - Consistent with HABC's Emergency Transfer Plan, HABC may allow residents requesting Emergency IV/IW transfers to select up to three specific developments for transfer to protect the resident's safety and security. Where three development options are allowed, the applicable developments covered under the CAMPBWL constitute one development selection.

- Administrative
  - An administrative transfer is a transfer that is initiated by HABC because HABC determines that the transfer is in the best interest of the resident or HABC. HABC reserves the right to determine the priority of the transfer.
  - Full documentation for the transfer rationale must be placed in the resident's file.
  - Administrative transfers require approval from the Executive Director or his/her designee.

- Immediate Needs
  - The consent decree entered in Bailey v. HABC (JFM-02-CV-225) and United States of America v. HABC (JFM-04-CV-3107) (the Bailey Consent Decree) provides for immediate needs transfers, which receive priority over other reasonable accommodation transfer requests.
  - The Immediate Needs Plan, which is Attachment B to the Bailey Consent Decree, defines "Immediate" as follows:
    - An immediate need refers to a family (including a family of one) residing in public housing that has a family member with a disability who: a) lacks access to a toilet; b) lacks access to a shower or a bathtub that can be used by a person with a disability; c) lacks access to the kitchen unless the person with the disability is a minor child under age 8 years; d) lacks access to a bedroom; e) lacks access to a bedroom occupied by a minor child/children for whom the person with a disability provides supervision or has child care responsibilities; f) lacks the ability to enter or exit the unit without assistance; or g) is at a substantial health risk, as verified by a healthcare professional, due to the conditions of the current unit.
    - The Immediate Needs Plan is to "remain in effect until HABC has completed the creation of the total number of UFAS compliant accessible public housing units required under the Bailey Consent Decree. HABC may, in its sole discretion, continue the Immediate Needs Plan after the total number of UFAS compliant accessible public housing units has been created.

- Immediate Needs transfer requests are investigated by Immediate Needs teams in accordance with the aforementioned Immediate Needs Plan. If the Immediate Needs team determines that the resident has an Immediate Need, it will prepare, with input from the resident, an Immediate Needs Plan. If the Immediate Needs Plan includes the option of a transfer to another unit and the family selects that option, the family will be placed on the reasonable accommodation transfer waiting list based on the date that the transfer request was made. Development selections will follow the policies under Reasonable Accommodations Transfers.

- Reasonable Accommodation

  - HABC approves reasonable accommodation (RA) transfer requests to a disability of the head of household or a household member.
  - Disability verification is required where the disability is not obvious or when it is not clear how a transfer will address the disability.
  - RA transfers are divided into two groups:
    - Transfers to UFAS or units on one level
    - All other RA transfers
  - Residents requesting an RA transfer to a UFAS unit or unit on one level may NOT select specific developments.
  - Where an RA transfer has been requested by an individual/family and the family is screened and approved for the Congregate Housing Services (CHS) Program, the individual/family will receive priority among other RA transfers for a vacant unit at any site which offers the CHS program. Among families who are approved for the CHS program, unit offers will be made according to unit size and date and time of transfer request.

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- Residents requesting all other RA transfers may select up to three locations as transfer options.
- Where three development options are allowed, the applicable developments covered under the CAMPBWL constitute one development selection.

- Demolition, Disposition, Revitalization or Rehabilitation
  - HABC will relocate a resident family with reasonable written notice when the unit or property in which the resident family lives is being disposed of or demolished or is undergoing major rehabilitation that requires the unit to be vacant.
  - Affected resident families will be placed on the transfer waiting list created pursuant to the HABC approved relocation plan.
  - In cases of revitalization or rehabilitation, the HABC approved relocation plan may provide that the family may be offered a temporary relocation and may be allowed to return to the family's unit once revitalization or rehabilitation is complete.

- Transfer from Accessible Units
  - In the event an accessible unit/unit with accessible features is occupied by a family that does not require those features, HABC or the privately managed site will initiate a transfer when a resident with a disability or an applicant with a disability requiring the accessible unit/features is identified.

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- Families living in accessible units/units with accessible features who do not need the accessible unit/accessible features: (1) will be given notice to move when a resident with a disability or applicant with a disability who needs the features in the unit is identified; (2) will receive a 30-calendar day notice to move after a unit of appropriate size/type is identified; and (3) will be required to transfer. If the family refuses to transfer, HABC or the privately managed site will terminate the lease.

• Over/Under Housed Category

- HABC will transfer families when the family size has changed and the family is now too large (under-housed) or too small (over-housed) for their unit, based on the Table of General Guidelines for Determining Unit Size included in the Occupancy Standard chapter section DETERMINING UNIT SIZE.
- Occupancy Standards transfers will be initiated by HABC when applicable household changes result in the family size exceeding the maximum standard or falling below the minimum standard for the given unit size or when applicable occupancy standards change because of changes in family composition.
- Occupancy Standards transfers are mandatory for the resident.
- Over/under-housed status will be determined at the time of reexamination/interim reexamination.
- HABC may elect not to transfer an over-housed family to prevent vacancies.
- A family that is required to move because of family size will be advised by HABC that a transfer is necessary, and that the family has been placed on the appropriate transfer list.

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- If a family opts for a smaller unit size than would normally be offered under HABC's occupancy standards, HABC may require the head of household's signature on a lease amendment acknowledging and agreeing with the approved guideline exception.
- Occupancy Standard transfers are categorized as follows:
  - SEVERELY OVER/UNDER-HOUSED CATEGORY
  - Severely Over/Under-Housed Category Transfers where the number of occupants listed on HABC Dwelling Lease constitutes over/under-housed conditions according to HABC's Occupancy Standards by two (2) or more bedrooms.
  - OVER/UNDER-HOUSED CATEGORY
  - Over/Under-Housed Category Transfers are transfers where the number of occupants listed on HABC Dwelling Lease constitutes over/under-housed conditions according to HABC's Occupancy Standards by one (1) bedroom.

- Scattered Site Incentive (upon implementation)
  - Upon implementation, HABC will offer the following Scattered Site Incentive Transfer.

- Scattered Sites Incentive transfers are resident initiated, non-mandatory transfers to one of HABC's scattered sites units. To qualify for Scattered Sites Incentive transfers resident families must:
  - Meet the good standing transfer criteria as shown in the section on ELIGIBILITY FOR TRANSFER;
  - At least one work-able adult household member must work a minimum of 30 hours/week and prove steady employment for at least six months prior to the date of the transfer request and maintain employment during the occupancy of the scattered sites unit as long as household member is work-able;
  - All work-able household members who are 18 years of age and older, if not employed, must be attending school as a full-time student, or enrolled in an approved job training program.
- Families who are elderly or persons with disabilities may request a Scattered Site Incentive transfer if they:
  - Meet the requirements for good standing as shown in the section on ELIGIBILITY FOR TRANSFER; and
  - Have income at or above the federal SSA benefit rate for an individual (for single person families) or for a couple for multiple person families.
- For Scattered Site Incentive transfer eligibility, work-able is defined as follows:
  - An adult family member who is between the ages of 18 and 55.

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FAMILY SPLITS

- HABC may approve a request for a split family transfer to address:
  - A reasonable accommodation.
  - An emergency health, safety, and/or habitability issue.
  - An over/under housed family in the event no appropriate size unit is available in the absence of a family split; or
  - To address a VAWA situation.
- The resident who splits from the original household must be otherwise eligible for occupancy of a public housing unit and legally capable of executing a lease

HABC-INITIATED TRANSFERS

- Transfers required by HABC are mandatory for the resident.
- Mandatory transfers are initiated by HABC management with the forwarding of a Notice of Proposed Action to a resident.
- HABC may proceed to terminate tenancy if a resident does not move based on a mandatory transfer.
- If the family requests a grievance hearing within the required timeframe, HABC may not act on the transfer until the conclusion of the grievance process.
- The following are HABC initiated transfers:
  - Emergency to Address Health, Safety, and Habitability Issues
  - Demolition, Disposition, Revitalization, or Rehabilitation
  - Transfer from an Accessible Unit

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- Severely Over/Under Housed Transfers
- Over/Under Housed Category Transfers
- Transfer Pursuant to an MOU
- Family Splits to address Health, Safety, and Habitability Issues; to Address a VAWA Situation or to Address a Severely Over/Under-housed Situation
- Administrative

RESIDENT-INITIATED TRANSFERS

- Resident-initiated transfers are transfers that commence with a written transfer request submitted to HABC by the resident and are approved by HABC. Resident reasonable accommodation requests to transfer to address a disability may be made orally. The resident's oral request shall be memorialized in writing by the resident or on behalf of the resident by representative of the resident or by HABC staff.
- The following are resident-initiated transfers:
  - Immediate Needs
  - Reasonable Accommodation
  - Emergency VAWA
  - Emergency IV/IW
  - Scattered Sites Incentive (upon implementation)
- Families must document circumstances that serve as the basis for the transfer request in a form acceptable to HABC.
- HABC will verify the need for the transfer and determine eligibility for the requested transfer.

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- HABC will respond either by approving the transfer and putting the family on the appropriate transfer waiting list, by denying the transfer, or by requiring more information or documentation from the family.
- If the family is not approved for the transfer, HABC will provide a denial letter to the family that will include information on the family's right to request a grievance. The letter denying a reasonable accommodation transfer request will identify Fair Housing agencies that the resident may contact.

TRANSFER WAITING LISTS

- Centralized transfer waiting lists are administered by the Office of Admissions and Leasing to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.
- Housing Operations staff submits requests for transfers, including necessary documentation, to the Office of Admissions and Leasing.
- The Office of Admissions and Leasing staff places residents approved for transfers on the appropriate waiting list based on the date the request was made for resident-initiated transfer requests and the date of the transfer application for HABC-initiated transfers.
- Within each transfer category, selection will be determined by the date and time of the resident-initiated transfer request or the date of the HABC-initiated transfer application, which ever applies, and required unit type.
- HABC may, at the time a resident reaches the top of the transfer waiting list, re-determine the resident's transfer needs prior to making any unit offer.

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- Residents on the Emergency to Address Health, Safety, and Habitability Issues; Emergency VAWA; Emergency IV/IW; Immediate Needs; Demolition, Disposition, Revitalization, or Rehabilitation, Transfers from an Accessible Unit; Reasonable Accommodation and Severely Over/Under-housed transfer waiting lists will be offered units that become available before the units are offered to applicants on the public housing waiting list.

- For over/under-housed transfers, on an annual basis, HABC will review its current occupancy goals and objectives and based on that review, establish a ratio of new admissions to transfers.

- Transfers will be processed in the following order based on the date/time of application within each category, subject to the requirements of Section 10.9, Administrative Transfers and Section 10.12, Demolition, Disposition, Revitalization, or Rehabilitation:

    1. Emergency to address health, safety, and habitability issues
    2. Emergency VAWA
    3. Emergency IV/IW
    4. Immediate Needs
    5. Reasonable accommodation
    6. Transfers from accessible units
    7. Demolition, Disposition, Revitalization, or Relocation
    8. Severely over/under-housed
    9. Over/under housed

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- HABC may, at its sole discretion, transfer a resident family without regard to its position on the transfer list in order to address a family in crisis or to address a legal directive. The transfer must be approved by two executive staff and full documentation that supports, and provides the reasons for, the transfer rationale must be placed in the resident's file.
- Where Scattered Site Incentive transfers are concerned, scattered site units are reserved solely for families who request this transfer and meet the scattered site incentive criteria. HABC will use date and time of transfer request to order the waiting list for the scattered site units.

MOVING COSTS

- HABC will pay for reasonable moving costs related to the transfer types outlined below.
  - Emergency to address health, safety, and habitability issues
  - Demolition, Disposition, Revitalization, or Rehabilitation
  - Reasonable Accommodation and Immediate Needs
  - Transfers from accessible units
  - Moving costs must be pre-approved by HABC.
- For all other transfers, the resident will pay all moving and other costs related to the transfer.

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SECURITY DEPOSITS

- Residents transferring from one HABC development to another HABC development will not be required to pay a new security deposit.
- The security deposit paid at the losing development will be transferred to the resident's account at the receiving development.
- If the resident has not paid all or part of the security deposit to the losing development, the resident will be required to pay the entire security deposit to the receiving development before being allowed to transfer.
- Residents transferring between a privately owned or managed site and an HABC development will be reimbursed the security deposit paid to losing development and required to pay a new security deposit to the receiving development.

PROCESSING TRANSFERS

- The Housing Managers at the losing and receiving developments will reach an agreement on the date the lease for the unit in the losing development will end and the date the lease for the receiving development will begin.
- They will also work cooperatively to complete the move and ensure that the residents sign the required the pre-transfer and leasing documents.

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- Residents transferring between traditional public housing units will have three (3) working days from the date the family signs the new lease for the gaining site to vacate the unit and return the keys to the losing development. Residents transferring from private sites to traditional public housing must return the keys and vacate the unit at the private site immediately upon the termination date of the lease at the private site.
- Public Housing families cannot maintain more than one Federally assisted unit, and any failure of Resident to surrender possession of the Dwelling Unit upon accepting possession of another Federally-assisted unit is: (1) a material breach of this Lease and the program requirements for such other Federally-assisted unit, and (2) grounds to terminate this Lease and assistance to Resident for the new unit.
- Occupancy Standard transfers are based on availability of the appropriate location, size, and features of the available units.

UNIT OFFERS FOR TRANSFERS

- When a suitable unit is available, HABC will offer the unit to the next family on the waiting list per the transfer hierarchy.
- HABC has the right to offer the same unit to multiple residents at the same time.
- If more than one resident accepts the unit, the unit will be leased to the resident who accepts the unit before the expiration of the acceptance period and is on the highest priority waiting list and has been on that waiting list for the longest period.

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- Offers shall be made orally and in writing. HABC may provide a priority for a unit offer in a specific location in its jurisdiction where a family is required to move as a result of demolition/disposition/revitalization or relocation and the family requests to remain in the same general vicinity as their existing unit due to employment, schools and/or medical/health care needs; however, if a unit in the desired area is not available, the unit offered must be accepted, unless there is good cause not to accept the offer.

- Generally, if the resident rejects the offered unit, unless the rejection is for good cause: (1) in resident-initiated transfers, the resident will be removed from the transfer waiting list; (2) in HABC-initiated transfers, the resident will receive a lease termination notice.

- Residents requesting RA transfers will be allowed to refuse three units, without good cause, before being removed from the RA Transfer WL.

- HABC may allow residents requesting Emergency IV/IW and VAWA transfers to select up to three specific developments for transfer to protect the resident's safety and security.

- If circumstances require immediate removal of the occupants in the unit, the resident will be required to move to the first available appropriate size unit, which will be considered a temporary move. If the unit from which the resident has been moved is made habitable, the resident may have the option of returning to that unit or, if the unit cannot be made habitable, to another unit in the same development. If the resident refuses to move, HABC will issue a lease termination notice to the family.

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- The resident has the right to file a grievance in accordance with HABC's Grievance Policy.
- Removal from the transfer waiting list means the resident must reapply for a transfer.

TRANSFERS AND REEXAM DATES

- Upon transfer to another unit, the head of household will sign a new lease that will be effective the date of the transfer.
- Transfers from Conventional Site to Another Conventional Site
  - The family's original reexamination date will remain the same when a family is transferring to another conventional site, The receiving development should be certain that the annual, biennial, or triennial review, whichever applies, is properly scheduled to give the staff time to re-determine rent to meet the established reexamination date.
- Transfer from Conventional Site to Privately Owned/Managed Site
  - The family will be treated as a new move-in and a full reexamination will be completed. The reexamination anniversary date will be consistent with the lease effective date. Income eligibility screening is completed.
- Privately Owned/Managed Site to Conventional Site
  - The family will be treated as a new move-in and a full reexamination will be completed. The reexamination anniversary date will be consistent with the lease effective date. Full eligibility screening is completed by Admissions.

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- Privately Owned/Managed Site to another Privately Owned/Managed Site
  - The family will be treated as a new move-in and a full reexamination will be completed. The reexamination anniversary date will be consistent with the lease effective date. Income screening is completed.
- Privately Owned/Managed Site to another unit within the Same Privately Owned/Managed Site
  - The family will sign a new lease; however, a new reexamination will not be completed during the transfer. The family will retain its reexamination anniversary date.

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CHAPTER 5 Service Animals, Support Animals, and Pets in Public Housing

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Explain and discuss the rules regarding assistance animals (service animals and support animals), and pets in public housing, including:
  - Understanding that assistance animals include service animals and support animals
  - Differentiating between service animals, support animals, and pets
  - Distinguishing between pet rules for elderly/disabled developments and family developments
  - Establishing ownership conditions and reasonable requirements in the development of pet policies for public housing developments

Section 5.1 Assistance Animals

BACKGROUND

Notice FHEO 2020-01

- Notice FHEO 2020-01, published January 28, 2020, provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies.
  - The notice states that Fair Housing Act (FHA) complaints concerning denial of reasonable accommodation and disability access comprise almost 60 percent of all FHA complaints.

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- FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals.
  - The notice should be read together with HUD's regulations prohibiting discrimination under the FHA, including the HUD/DOJ Joint Statement on Reasonable Accommodation.

TWO TYPES OF ASSISTANCE ANIMALS

- There are two types of assistance animals: (1) service animals, and (2) support animals, which are other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities.
- Assistance animals are not pets. An animal that does not qualify as a service animal or support animal is a pet for purposes of the FHA.
  - A PHA may charge a fee or deposit for pets in its policy, subject to local law, but not for service animals or other assistance animals (support animals).
- While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

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SERVICE ANIMALS

- PHAs should initially follow the Department of Justice (DOJ) analysis in assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA).
- Under the ADA, service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.
  - As a best practice, housing providers may refer to the questions used for determining whether an animal is a service animal under the ADA as outlined in Notice FHEO 2020-01.
- Performing "work or tasks" means that the dog is trained to take a specific action when needed to assist the person with a disability.
  - If the individual identifies at least one action the dog is trained to take that is helpful to the disability other than emotional support, the dog should be considered a service animal and permitted in housing, including public and common use areas. Housing providers should not make further inquiries.
  - If no specific work or task is identified, the dog should not be considered a service animal but may be a support animal (another type of animal for which a reasonable accommodation may be required). Emotional support, comfort, wellbeing, and companionship are not considered a specific work or task for purposes of analysis under the ADA.

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SUPPORT ANIMALS (ASSISTANCE ANIMALS OTHER THAN SERVICE ANIMALS)

- When the animal does not meet the definition of service animal, PHAs and other housing providers may use the relevant questions outlined in Notice FHEO 2020-01 to help them make a decision regarding the reasonable accommodation.
  - If the individual has requested a reasonable accommodation-that is, asked to get or keep an animal in connection with a physical or mental impairment or disability, the PHA would then consider the "Criteria for Assessing Whether to Grant the Requested Accommodation" outlined in the notice.
  - If not, the PHA or other housing provider is not required to grant a reasonable accommodation that has not been requested.

CRITERIA FOR ASSESSING WHETHER TO GRANT THE REQUESTED ACCOMMODATION

If the person has an observable disability or the housing provider (or agent making the determination for the housing provider) already has information giving them reason to believe that the person has a disability, the PHA should determine whether there is a connection between the person's disability and the animal.

- The person requesting the accommodation should provide information that reasonably supports that the person seeking the accommodation has a disability and that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability.

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- Information about the disability may include:
  - A determination of disability from a federal, state, or local government agency
  - Receipt of disability benefits or services (Social Security Disability Income (SSDI), Medicare, or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency)
  - Eligibility for housing assistance or a housing voucher received because of disability
  - Information confirming disability from a health care professional, such as physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse
    - Notice FHEO 2020-01 states that health care professionals should use personal knowledge of their patient or client, i.e., the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient or client.

FHEO 2020-01 Guidance about Documentation from the Internet

- Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee.
  - Notice FHEO 2020-01 states that in HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

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- FHEO 2020-01 also states that many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

TYPE OF SUPPORT ANIMAL

The PHA may also consider whether the requested animal is an animal commonly kept in households.

- An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.
- If the individual is requesting to keep a unique animal not commonly kept in households, then the requester has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional.

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General Consideration of the Reasonableness of the Request

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- A PHA or other housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).
- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.
- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requester called the "interactive process."

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Section 5.2 Pet Rules for All Developments

HABC Pet Policy

- Privately owned sites may have different pet policies.
- Family developments converted under RAD shall follow the pet policy set forth in the Long Term Affordable (LTA) Criteria.
- Neither HABC's Pet Policy nor the pet policies followed by the privately owned sites, or the RAD Sites, apply to animals that are used to assist, support, or provide service to persons with disabilities, or to service animals that visit public housing developments.

EFFECT OF STATE/LOCAL LAWS

CFR 5.315(d), and CFR 960, Subpart G

- State/local law applies if conflict exists in these areas:
  - Exclusion for animals to assist persons with disabilities
  - Definition of common household pet
  - Pet rule content regulations
  - Inoculations or licensing
  - Sanitary standards
  - Pet restraint
  - Registration and screening of pets
  - Pet and tenant density provisions
  - Pet size and type
  - Financial obligations of pet ownership
  - Standards of pet care
  - Pets temporarily on premises
  - Lease provisions
  - Nuisance and threat to health or safety

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- Sections where HUD prevails:
  - Definitions of project for elderly or persons with disabilities
  - Effective date provisions
  - Prohibition against discrimination
  - Procedural guidance
  - Tenant notices
  - Developing Housing Rules
  - Pet rule violations
  - Rejection of units by applicants
  - Implementation of lease provisions

WHAT ANIMALS QUALIFY?

CFR 5.306(2), 5.318(a), and CFR 960.707(a)

- PHAs may define common household pet.
- Definition must be reasonable.
- Definition is subject to reasonableness standards for developing House Rules.

No reference

- May not exclude dogs or cats.

HABC Pet Policy

- The term “Pet” is defined as a domesticated small animal limited to dogs, cats, gerbils, hamsters, guinea pigs, birds, (parakeet, canary, finches, cockatoo, small parrot) and fish.

HABC Pet Policy

- The following breeds are excluded from the definition of Pet, and shall be expressly prohibited from being kept, owned or harbored in, on or about the Premises (as that term is defined in the Lease) by any Resident or any member of the Resident's household:
  - Pit Bulls, Rottweilers, Chow-Chows, Bull Mastiffs, Doberman Pinschers, and any cross-breed thereof, and any wolf or part wolf.

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RULES

- There are no mandatory rules for PHAs other than the general guidelines provided in 24 CFR 5.318 and 5.350 for elderly/disabled developments and CFR 960, Subpart G for general occupancy developments.

CFR 5.315(b)(2), and CFR 960.707(a)

- Tenants must be permitted to own and keep pets in units in accordance with lease, regulations and state/local laws regarding pets.

CFR 5.315(b)(3)

- PHAs shall not impose any requirement inconsistent with regulations.

- Pet rules in PHA policy:

CFR 5.315(c)(1)(i)

  - Must be reasonably related to furthering statutory or contractual interest of PHA such as:
    - Providing decent, safe and sanitary living environment for current and prospective residents
    - Protecting and preserving physical condition of project

CFR 5.315(c)(1)(ii)

    - Financial interest in project.

- PHAs cannot impose unnecessary burdens and restrictions on pet owners and prospective pet owners.

CFR 5.315(c)(2), and CFR 960.707(b)(4)

- PHAs may vary content of rules among projects and within individual projects based on size, type, location and occupancy of projects or its units if rules are reasonable and do not conflict with state/local law or regulation.

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Density of Tenants and Pets

CFR 5.318(b), and CFR 960.707(b)(2)

- May place reasonable limits on numbers of pets allowed in each dwelling unit.

HABC Pet Policy

- No more than one domesticated Pet, and/or one 20-gallon tank of fish will be kept in a Unit.
- Heads of household shall be responsible for their Pet. The Resident must maintain the Pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations.

Pet Size and Type

CFR 5.318(c), and CFR 960.707(b)(23)

- Rules may place reasonable limitation on pet types and size and weight of pets allowed. state/local law applies.

HABC Pet Policy

- Dogs or cats or others defined above shall weigh no more than twenty (25) pounds at maturity.
- Fish are limited to a single bowl or steel framed glass fish tank having a capacity of not more than twenty (20) gallons.
- Birds can be no larger than one (1) pound.

Standards of Pet Care

CFR 5.318(e) and CFR 960 Subpart G

- Pet rules may address standards of pet care and handling.
- Rules may prescribe sanitary standards to govern disposal of pet waste such as:

Industry Practice

- Designate areas on project premises for pet exercise and disposal of pet waste;
- Forbid pet owners from exercising pets or permitting pets to deposit waste on project premises outside the designated areas;
- Require pet owners to remove and properly dispose of all removable pet waste;
- Require pet owners to remove pets from premises to permit pet to exercise or deposit waste if no designated area on project premises.

- State/local law applies.

HABC PET POLICY

HABC Pet Policy

- A Pet owner must be physically and mentally capable of taking care of the Pet.
- The Unit must be kept free of odors and maintained in a clean and sanitary condition.
- Cats must be litter box trained and dogs must be able to exercise outside the Dwelling Unit. Litter boxes must be changed a minimum of once a week and scooped once a day. Kitty litter is to be bagged securely in a heavy plastic trash bag, tied, and disposed of in an approved trash receptacle.
- Birds must be maintained in a cage and never allowed to fly free within the Dwelling Unit.

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- Dog and cat bedding and the Dwelling Unit are to be kept free of and treated regularly on an ongoing basis against infestations by fleas, ticks, lice, pet worms, mites, and other parasites. If infestation of any such parasites or vermin occur which shall be determined by Management to have occurred due to inattentive care by the Pet owner, and/or if such infestation shall spread to other Dwelling Units, Management shall have the right to eradicate in all affected areas at Pets owner's expense.
- Pet owners must control excessive noise and odor caused by their Pets.

REGISTRATION

- All Residents, whether desiring a Pet or not, must sign the Pet Policy, thereby acknowledging agreement and acceptance of the Pet Policy.
- Those Residents desiring a Pet will have to meet all requirements listed in Pet Policy and sign the "Application for Pets" including Section 3 which includes the "Co-Responsibility" section for a non-Resident friend or relative to sign.
- Female cats and dogs over six months of age must be spayed and males over eight months must be neutered, unless a licensed veterinarian gives medical reasons why such is detrimental to the Pet's health.
- The Management Agent reserves the right to rescind or change any of the foregoing rules to make such rules and regulations as may be deemed necessary for the safety, care and cleanliness of the Premises, and for the security, comfort and convenience of all Residents. Any changes deemed necessary by the Management Agent will be made in compliance with the Lease.

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- This Pet Policy is made a part of the HABC Dwelling Lease and any violation of the terms and conditions contained herein, will be considered a breach of the Lease. If any Court declares a particular provision of this Pet Policy to be invalid or illegal, all other terms of this Pet Policy will remain in effect, and both the Management Agent and the Resident will continue to be bound by all valid, legitimate terms of the Pet Policy.

CFR 5.318(f)

- Pet rules may require pet owners to comply with applicable state or local laws or regulations on licensing and inoculation of pets.

- Pet owners are held responsible for meeting the law, regardless.

HABC Pet Policy

- Every Pet, if required by law, must wear a current City Animal license and be vaccinated.

- Resident must submit registration papers to the Management Office. A copy of the Pet's (dog or cat) current inoculation and treatment is to be furnished and verified annually by a licensed veterinarian which must indicate dates of most recent shots and treatment against disease and parasites as follows:

  - Dogs - rabies, parvo virus, para influenza, distemper, hepatitis, leptospirosis (D.H.L.), hookworm, heartworm, roundworm, tapeworm, and other internal and other parasites, fleas, ticks and other external parasites and other diseases of the skin including eczemas.

  - Cats - rabies, rhinotracheitis, Calice virus, pneumonitis, tapeworms, hookworms, heartworms, and other internal parasites, fleas, lice, ticks and other external parasites.

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- Residents must submit the following registration papers to the Management Office prior to bringing a pet onsite:
  - Complete pet application
  - Documentation from a licensed vet or state/local authority regarding inoculations/ vaccinations
  - Certification of spaying/neutering
  - Pet deposit

OTHER ACCEPTABLE RULES

CFR 5.318(g), and CFR 960 Subpart G

- Designation of buildings, floors or buildings, or sections of buildings as pet and no-pet areas where pets generally are or are not permitted.
- PHA may direct any necessary initial tenant moves to establish areas.
- PHA may not refuse to admit or delay admission of applicant on grounds that admission would violate pet or no-pet area. May readjust areas or direct additional moves to meet changing needs of existing tenants.
- State/local law applies.

HABC Pet Policy

- Pets must be on a leash outside of the Dwelling Unit and in all public areas. Under no circumstances may any Pet of any kind be taken into, or permitted to be in, the recreation/community rooms, or any other "common" room.

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- Pet owners shall be responsible for immediate clean-up of Pet feces in accordance with applicable law. Resident must ensure that their yard is kept clear of Pet feces. Resident will not place any animal fecal waste, kitty litter, etc., or other articles in the sinks, plumbing fixtures or on the grounds. Residents must place all Pet waste in a heavy plastic trash bag, tied and disposed of in an approved trash receptacle. If a toilet must be unclogged or a sink unstopped because of animal waste, kitty litter, and/or stones from a fishbowl, the Resident will pay all associated cost.

- No dog or cat shall be left alone in any Unit over twenty-four (24) hours. Any Resident who is away twenty-four (24) hours or longer for any reason must plan for such Pet to be kept elsewhere during his/her absence.

- The Pet owner shall file with the Management an affidavit of agreement signed by one (1) person who is not a Resident of the Unit who will assume immediate responsibility for the Pet in case of an emergency or in case the Pet owner becomes unable to provide proper care for the Pet. In addition, the Pet owner shall file with Management Agent an affidavit authorizing Management Agent to have the Pet removed if the Pet owner cannot care for the Pet and the responsible party cannot be reached. Management Agent will contact the SPCA or an appropriate authority for removal of the Pet in such event.

- When a fire alarm or smoke detector sounds, Pets are to be placed in the bathroom and the door is to be closed. If evacuation is necessary the fire department will be responsible for the evacuation of Residents first, and then the Pet.

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LEASE PROVISIONS

- Leases for all affected tenants must:

CFR 5.321(b)

  - Not contain any provisions prohibiting common household pets;

CFR 5.321(a)(ii)

  - Incorporate the pet rules by reference;

CFR 5.321(a)(iii)

  - Provide that the tenant agrees to comply with the rules, including tenant moves required by pet rule;

CFR 5.321(a)(iv)

- State that violation of rules may be grounds for removal of pet or termination of pet owner's tenancy or both (subject to HUD regulations and state/local law).

IMPLEMENTATION OF LEASE PROVISIONS

CFR 5.324

- The lease for each tenant of a project for the elderly or persons with disabilities or mixed projects must contain the PHA's pet lease provisions and may not contain prohibited provisions.

NUISANCE OR THREAT

CFR 5.327

- Nothing in HUD regulations prohibits a PHA or appropriate community authority from requiring the removal of any pet from a project if conduct or condition is determined to constitute a nuisance or threat to health or safety of other occupants or of other persons in the community.

HABC Pet Policy

- If, in the judgment of Management, any Pet becomes a threat to the safety and comfort or quiet enjoyment of the Premises to any other Resident, employee, or visitor to the Premises, or if such Pet causes substantial damage to any part of the building or grounds or the furnishings and fixtures thereof, then, upon the written request of Management, such Pet shall be permanently removed from the Premises by the Pet's owner within five (5) days.

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- If the Resident files a grievance the Pet shall be allowed to remain until the grievance process is exhausted.
- In the case of a Pet biting a person, the Pet must be immediately removed to an area for surveillance for a period designated by a Health Officer and must then be examined by a licensed Veterinarian. Animal bites must also be reported to the local Health Department and/or the Police. A bite victim or parent of a child bitten by an animal can swear out a complaint against the owner of the Pet at the nearest district court. Refusal by the Pet owner to abide by Management Agent's request for a pet's removal may result in termination of residency.
- All complaints about Pets will not be considered valid (or heard) unless they are in writing, dated and signed by the person(s) making the complaint. Management Agent will review complaints and/or problems concerning a Pet/Pet owner. Management Agent will notify in writing the Pet owner of the complaint and the Resident will have 24 hours to answer the complaint. Two or more legitimate complaints will mean the Pet must be removed unless the Pet owner initiates a grievance procedure. Failure to comply may result in termination of residency.

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PET DEPOSIT

CFR 960.707(d)

- No pet deposit is required.
- A PHA that requires a resident to pay a pet deposit must place the deposit in:
  - An account of the type required under applicable state or local law for pet deposits; or
  - If a state or local law has no requirements regarding pet deposits, for rental security deposits if applicable.
- The PHA must comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion of the deposit to the resident, and any other requirements.

HABC Policy

- A refundable Pet security deposit of twenty-five dollars ($25.00) shall be required for each Pet. The Pet security deposit can be paid over a three (3) month consecutive period and will be held in the manner required for applicable security deposits under Maryland law.
- If a Resident has an approved Pet and that Pet is disposed of, the Resident must notify Management Agent. The Resident and Management Agent will perform an inspection of the apartment. The Pet security deposit will be used towards any damages and the balance, if any, of the Pet security deposit will be returned to the Resident within 45 days. If the Resident determines they want a new Pet, the Pet must be registered with the Management Office and a new Pet security deposit must be collected in accordance with the Pet Policy.
- The pet security deposit will be returned within 45 days of move-out or if a pet is removed before resident moves from the dwelling unit, within 45 days of pet removal.

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- Upon move-out or Pet removal the cost to de-flea, deodorize, and clean the carpet and/or floor tile will be deducted from the Pet security deposit if deemed necessary by Management. The Dwelling Unit will be inspected, and the remainder of the Pet security deposit will be refunded, if the Dwelling Unit is free of damage. The move-out inspection will be performed by the Resident and Management.

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PUBLIC HOUSING PETS QUIZ

1. PHAs _____ apply or enforce the pet rules to service animals and assistance animals.
   a. May
   b. Must
   c. May not
   d. May or may not, per PHA policy

2. HABC policy requires that every pet (if required by law) must wear a current City Animal license and be vaccinated.
   a. True
   b. False

3. According to HABC's pet policies, residents may own up to five domesticated animals per unit as pets.
   a. True
   b. False

4. A PHA may require the following:
   a. Verification that a pet has had all its shots
   b. Verification of training or certification of a service animal
   c. That an assistance animal is needed to help someone with physical, but not mental, disabilities

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Notes

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CHAPTER 6 Terminations

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe and analyze reasons for terminations, including:
  - Discussing the mandatory and the discretionary policy decision points for terminations and evictions
  - Identifying the reasons for termination of tenancy
  - Identifying notice requirements for lease termination actions
- Explain and discuss the procedures for settling grievances and their associated requirements, including informal settlements and grievance hearings

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Section 6.1 Requirements for Evictions and Terminations

TERMINATION OF THE LEASE

CFR 966.4(l)

- PHAs must develop dwelling lease requirements that permit the prompt eviction of tenants who are unable or unwilling to live up to the terms of the lease.

CFR 966.4(l)

- The lease must state procedures to be followed in termination.

TERMINATION BY TENANT

CFR 966.4(k)

- The lease must specify the length of notice required for the tenant to terminate the lease.
- Notice to the PHA must be provided in accordance with the provisions of the lease.

HABC ACOP, Section 15.2

- The family may terminate the lease by providing HABC or the privately owned/managed site with 30 calendar day's prior notice at any time, for any reason, as indicated in the lease.
- Such notice must be in writing and delivered to the property site office or HABC's central office or the privately owned/managed site or sent by pre-paid first-class mail, properly addressed.
- The notice of lease termination must be signed by the head of household, spouse, or co-head.
- When a family must give less than 30 days' notice due to circumstances beyond the family's control, HABC or the privately owned/managed site, at its discretion, may waive the 30-day notice requirement.
- Residents must provide HABC with seventy-two (72) advance notice of their actual move-out date so that HABC can ensure that the unit is safely secured.

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TERMINATION BY PHA

CFR 966.4(l)(2)

- A PHA may terminate a public housing tenancy only for serious or repeated violations of material terms of the lease, such as the following:
  - Failure to make payments due under the lease
  - Failure to fulfill household obligations, as described in the lease

24 CFR 960.507, Notice PIH 2023-03

  - Having an income in excess of the over-income limit for the program for 24 consecutive months
    - PHAs must indicate in policy whether they will terminate over-income families within six months or provide the option to pay the alternative rent.
    - If the PHA gives the family the option to pay the alternative rent and the family declines, the PHA must terminate tenancy no more than six months after the end of the 24 consecutive month grace period.
    - An over-income family that declines to pay the alternative rent will continue to be a public housing program participant family in the period before termination.
    - As a result, PHAs that choose to permit over-income families to remain in public housing units as non-public housing over-income (NPHOI) families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.

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- Other good cause, which includes, but is not limited to, the following:
  - Criminal activity or alcohol abuse as defined in the lease (HABC ACOP Section 15.4)
  - Discovery after admission of facts that make the tenant ineligible (HABC ACOP Section 15.4)
  - Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income (HABC ACOP Section 15.4)
  - Failure of a nonexempt family member to comply with community service requirements (HABC ACOP Section 15.3.7)
  - Failure to accept the PHA's offer of a revision to an existing lease (HABC ACOP Section 15.3.4)

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HOW TENANT IS EVICTED

CFR 966.4(l)(4)(i)
[in Hawaii 966.4(l)(4)(ii)]

- A PHA may evict a tenant from a public housing unit only by bringing a court action unless the law of the jurisdiction permits eviction by administrative action.
  - To evict without bringing a court action, the PHA must afford the tenant the opportunity for a preeviction hearing in accordance with the PHA's grievance procedures.

DEFINITIONS RELATED TO EVICTION

- HUD definitions related to evictions are printed in 24 CFR 5.100:
  - *Covered person* means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
  - *Drug* means a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).
  - *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug (21 U.S.C. 802).
  - *Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

HABC ACOP 14-27

- The term "guest" means a person temporarily staying in the Dwelling Unit with the consent of the resident or other member of the household who has express or implied authority to so consent on behalf of the resident. An "overnight guest" means a guest who spends the night in the Dwelling Unit.

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- Participants may not allow lodgers or boarders to occupy the unit. Violation of this provision is grounds for lease termination.
- Guests may not stay overnight for more than 21 nights in any 52-week period of time without HABC approval.
- In a joint custody arrangement, the minor is considered a guest and not a family member if the minor is in the household less than 90 calendar days per year.
- Use of the unit address as the guest's current residence for any purpose shall be construed as permanent resident and is a violation of the lease.
    - *Other person under the tenant's control*, for the purposes of the definition of *covered person*, means that the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as *premises* is defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
        - Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is *not* under the tenant's control.
        - HUD adds this term to clarify that this person is not staying in the unit, to distinguish this person from a guest, who *is* staying in the unit.
        - The "other person under the tenant's control" is a short-term invitee who is under the tenant's control only during the period of the invitation and is on the premises because of that invitation.

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- The tenant's legal control would be limited by the brevity of the visit and would not extend to activity off the public housing premises.

- *Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

NOTICE OF INTENT TO TERMINATE AND OPPORTUNITY TO DISPUTE

24 CFR 5.903(f)
24 CFR 966.4(l)(5)(iv)

- If a PHA's decision to evict a tenant is based on criminal record information, the PHA must notify the household of the proposed action and:
  - Supply the subject of the record and the tenant with a copy of the criminal record(s); and
  - Provide the opportunity for the subject of record and the tenant to dispute the accuracy and relevance of the information before the PHA issues the notice of termination.

24 CFR 5.905(d)

- If a PHA obtains sex offender registration information from a state or local agency showing that a household member is subject to a lifetime sex offender registration requirement, the PHA must notify the household of the proposed action to be based on the information and must provide:
  - The subject of the record, and the applicant or tenant, with a copy of such information; and
  - An opportunity to dispute the accuracy and relevance of the information

- This opportunity must be provided before an eviction or lease enforcement action on the basis of such information.
- 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.

HABC ACOP, Section 15.8.3

- If HABC or the privately owned/managed site uses the authority of 24 CFR 5.903 and 5.905 to obtain criminal record information, certain protections shall be afforded to the resident before any adverse action is taken.
- The family will be given 10 working days from the date of the notice, to dispute the accuracy and relevance of the information.
- If the family does not contact HABC or the privately owned/managed site to dispute the information within that 10-business day period, HABC or the privately owned/managed site will proceed with the termination action.
- Should the resident not exercise his/her right to dispute the information prior to any adverse action, the resident still has the right to dispute the information in the grievance hearing or at court trial.

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MANDATORY TERMINATION OF TENANCY

CFR 966.4(l)(5)(i)

MANDATORY TERMINATION FOR METHAMPHETAMINE CONVICTION

- The PHA lease *must* provide for the immediate termination for persons convicted of the production or manufacture of methamphetamine on the premises of federally assisted housing. (HABC ACOP Section 15.3.5)
- PHAs are mandated by law to terminate if the PHA determines that any member of the household has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

OTHER MANDATORY TERMINATIONS

- Failure to meet HUD's requirements regarding social security numbers (HABC ACOP Section 15.3.3)
- Permitting an ineligible noncitizen (who was not considered in the calculation of prorated rent) to reside in the unit on a permanent basis (HABC ACOP Section 15.3.2)
  - For at least 24 months

CFR 5.232(c)

- Failure to sign the Form HUD-9886-A or any other release form required under HUD regulation or PHA policy
  - The HOTMA final rule provides PHAs with the discretion to determine whether applicants or recipients are ineligible for benefits if they, or their family members, refuse to provide or revoke the authorization to obtain financial records.

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HABC ACOP, Section 15.3.1

- HABC or the privately owned/managed site will terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.
- Noncompliance with community service (HABC ACOP, Section 15.3.7)
  - Lease is not renewed upon expiration of the lease term

Notice PIH 2012-28

- Discovery that a member of an assisted household who was admitted after June 25, 2001, was subject to a lifetime registered sex offender requirement. (HABC ACOP, Section 15.3.6)
  - The PHA must offer the family the opportunity to remove that individual from the household.

HABC ACOP, Section 15.3.8

- HABC or the privately owned/managed site will terminate assistance for a deceased single member household.
  - HABC or the privately owned/managed site will list the end of participation date as the date on which the family or designee of the deceased resident's estate returned the keys and signed a vacate notice; or the date the public housing lease was terminated; or the date HABC or the privately owned/managed site legally regained possession of the unit, whichever occurs first.
  - To permit a presumed next of kin to obtain belongings of a deceased resident left in the dwelling unit, such person must present valid picture identification and must: (1) be listed on the resident's emergency contact form; (2) present a letter of administration from a court of competent jurisdiction; or (3) present a notarized statement, in the form approved by HABC, certifying under penalties of perjury that he/she has the sole right to claim possession of the items.

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- Verification of death is required. Acceptable documentation includes a death certificate, funeral program or obituary.
- If documentation is unavailable, an EIV Deceased Tenant Report is acceptable as verification.

OVER-INCOME FAMILIES

- As set forth in 24 CFR 960.507, families participating in the public housing program must not have incomes that exceed the over-income limit for more than 24 consecutive months.
  - The over-income limit is determined by multiplying the applicable very low-income limit (adjusted for family size) by 2.4.
  - An over-income family is defined as a family whose income exceeds the over-income limit.
- As specified in PHA policy, once a family's income has exceeded the over-income limit for 24 consecutive months, the PHA must either:
  - 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), execute a new lease that is consistent with 24 CFR 960.509 and charge the family the alternative non-public housing rent, which is equal to the greater of the:
    - Applicable Fair Market Rent; or
    - Amount of monthly subsidy for the unit including amounts from the operating and capital fund; or
  - Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period.
    - While the period before termination may be up to six months, it may be less as defined in PHA policy.

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- HABC policy calls for allowing NPHOI families to execute a new NPHOI lease and pay the alternative non-public housing rent.
- If the PHA determines during an annual or interim reexamination that the family's income exceeds the over-income limit, no later than 30 days after the reexamination, the PHA must make a note in the tenant file and provide written notice to the family stating that they have exceeded the over-income limit and that the family will be subject to the PHA's over-income policies if they continue to exceed the over-income limit for 24 consecutive months.
- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.
- The PHA must conduct an income reexamination 12 months after the initial over-income determination, unless the PHA determines that the family's income fell below the over-income limit since the initial over-income determination. If PHA determines that the family's income has exceeded the over-income limit for 12 consecutive months, the PHA must again notify the family in writing within 30 days of the determination that their income has exceeded the over-income limit for 12 months, and if it continues to do so for the next 12 consecutive months, the family will be subject to the PHA's over-income policies.
  - The notice must include an estimate based on current data of the alternative non-public housing rent for the unit.
  - The PHA must conduct this reexamination within 12 months even if the family is paying flat rent and PHA policy only requires income redetermination every three years.

- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.

- The PHA must conduct an income reexamination 24 months after the initial over-income determination, unless the PHA determines that the family's income fell below the over-income limit since the second over-income determination. If PHA determines that the family's income has exceeded the over-income limit for 24 consecutive months, the PHA must again notify the family in writing within 30 days of the 24-month over-income determination. The notice must state:

  - That the family has exceeded the over-income limit for 24 consecutive months
  - That the PHA will charge the family the alternative non-public housing rent, as specified in PHA policy
    - If the PHA will charge the alternative non-public housing rent, the notice must inform the family of this determination. The PHA must also present the family with a new lease that complies with the requirements of 23 CFR 960.509 and inform the family that the lease must be executed within no later than 60 days of the notice or at the next lease renewal, whichever is sooner.

- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.

- The PHA must endure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, or other disabilities.

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- An over-income family continues to be a public housing program participant until their tenancy is terminated or they execute a non-public housing lease, as applicable.
- The family becomes a non-public housing over income (NPHOI) family upon execution of the new lease. NPHOI families are precluded from participating in any programs that are only for public housing or low-income families, including the public housing resident council; are not subject to the Community Service and Self Sufficiency requirement (CSSR); are not subject to any type of recertification; are not given a choice between income-based and flat rent; and may not receive any federal assistance, including a utility allowance. However, the PHA may at its discretion offer grievance or hearing rights to the family in accordance with PHA policy.
- If at any time during the 24 consecutive-month period the PHA determines that the family's income has fallen below the over-income limit, the PHA's over-income policies no longer apply to the family. If the family subsequently experiences an increase in income over the over-income limit, the family is entitled to a new 24 consecutive month period.
- The PHA must submit a report annually to HUD that specifies the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on waiting lists for admission to public housing projects and provide the any other information on over-income families HUD requests.

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- If the PHA gives the family the option to pay the alternative rent and the family declines, the PHA must terminate tenancy no more than six months after the end of the 24 consecutive month grace period.
- An over-income family that declines to pay the alternative rent will continue to be a public housing program participant family in the period before termination.
- As a result, PHAs that choose to permit over-income families to remain in public housing units as non-public housing over-income (NPHOI) families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.
  - See Notice PIH 2023-03 for further clarifications and guidance on the public housing over-income provisions.

HABC ACOP, Section 11.17.2

- Any previously paid security deposit will be applied to the tenancy upon signing of the NPHOI Lease. The NPHOI Lease will include the circumstances under which the security deposit will be returned plus circumstances when the tenant will be charged for damage to the unit, all of which will be consistent with State and local security deposit laws.

HABC ACOP, Section 14.4

- Over-income families, during the 24 consecutive month period where they continue to be over-income, will have regular reexaminations conducted on an annual basis; however, non-public housing over-income families will not be subject to annual reexaminations of family income.

- When and if an over-income family's income decreases to the point where they are no longer over-income, HABC will conduct a certification to review the family income and determine the applicable reexamination frequency for the family.

ALLOWABLE TERMINATION OF TENANCY

REQUIRED LEASE PROVISIONS

Termination for alcohol abuse, drug-related criminal activity, or violent criminal activity (HABC ACOP Section 15.4)

- The PHA lease *must* provide that termination of tenancy is allowed under all of the following circumstances:

CFR 966.4(l)(5)(vi)(A)
- Abuse or pattern of abuse of alcohol by a household member that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents
- HABC will consider the use of alcohol to be a pattern if there is more than one incident during the previous 12 months

CFR 966.4(l)(5)(i)(B)
- Illegal drug use by a household member

CFR 966.4(l)(5)(i)(B)
- Pattern of illegal drug use by a household member that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents

CFR 966.4(l)(5)(vi)(B)
- False or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers furnished by the tenant

CFR 966.4(l)(5)(i)(B)
- Drug-related criminal activity by any tenant, member of the tenant's household or guest on or off the premises

CFR 966.4(l)(5)(i)(B)
- Drug-related criminal activity on the premises by any other person under the tenant's control

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CFR 966.4(l)(5)(ii)(A)

- Criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, PHA management staff residing on the premises, and/or persons residing in the immediate vicinity

- Smoking of prohibited tobacco products in restricted areas or any other areas the PHA has designated as smoke-free by tenants, household members, guests or other persons under the tenant's control.

- PHAs are not mandated to terminate in any or all of the above circumstances. See "Consideration of Circumstances" section that follows.

Optional Lease Provisions

Terminations for fugitive felons or parole violators (HABC ACOP Section 15.4)

CFR 966.4(l)(5)(ii)(B)

- The PHA *may* terminate the lease of a tenant who 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 is a high misdemeanor in the state of New Jersey

  - Violating a condition of probation or parole imposed under federal or state law

Additional HABC Authorized Terminations

HABC ACOP Section 15.4

- Any member of the household, during the household's current public housing tenancy, becoming subject to a registration requirement under a state sex offender registration program;

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- Failure to furnish such information and certifications regarding family composition and income as may be necessary for HABC or for the privately owned/managed site 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 HABC or the privately owned/managed site that such a dwelling unit is available;
- Failure to transfer out of a wheelchair accessible unit after it has been determined that no one in the household needs the features of the wheelchair accessible unit upon appropriate notice by HABC or the privately owned/managed site that another dwelling unit is available;
- Failure to permit access to the unit by HABC or the privately owned/managed site 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. A written statement specifying the purpose of HABC's or the privately owned/managed site's entry delivered to the unit at least forty-eight (48) hours before such entry shall be considered reasonable advance notification;
- Failure to inform HABC or the privately owned/managed site of the birth, adoption, or court-awarded custody of a child within 10 working days of the event;
- Failure to abide by the provisions of HABC's pet policy or a privately owned/managed site's pet policy;

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- If the family has breached the terms of a repayment agreement entered into with HABC or the privately owned/managed site;
- Violation of a federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises (inclusive of failure to appear and provide all required information during the re-examination unless the resident can show that failure to provide the information was due to circumstances beyond the resident's control);
- Engaging in or threatening violent or abusive behavior toward HABC or the privately owned/managed site personnel (abusive or violent behavior 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);
- Resident caused damage;
- Failing to move out of a unit to allow the rehabilitation of the unit; and
- Failing to move out of a unit when the move is for health and safety reasons.
- In addition, HABC or the privately owned/managed site may terminate the lease for other grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. What constitutes serious or repeated lease violations, and other good cause, is based upon the content of HABC’s or the privately owned/managed site's lease.

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- In the development of the terms of the lease, HABC and the privately owned/managed sites will consider the requirements imposed by state and local landlord-tenant law, as well as HUD regulations, federal statutes, and MTW policies.

FAMILY ABSENCE FROM THE UNIT

HABC ACOP, Section 15.4.1

- Absence in this context means that no member of the family is residing in the unit. The family must supply any information or certification requested by HABC or the privately owned/managed site to verify that the family is living in the unit, or explaining the family absence from the unit, including any information or certification requested by HABC or the privately owned/managed site on the reasons for the family absences.
- The family must cooperate with HABC or the privately owned/managed site for this purpose.
- If a family is absent from the federally subsidized unit for more than 30 consecutive calendar days, and the family does not adequately verify that they are living in the unit; HABC or the privately owned/managed site will terminate the lease.
- If the family appears to have vacated the unit without giving proper notice, HABC or the privately owned/managed site will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit.

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Failure to Make Payments at the Time and in the Amount Due Under the Lease

HABC ACOP, Section 15.4.3

- If HABC or the privately owned/managed site obtains 4 judgments against a resident for failure to pay rent in a preceding 12-month period, HABC or the privately owned/managed site may ask the Court, when filing the fifth failure to pay rent complaint for authorization to deny the resident the opportunity to keep occupancy of the unit, even if the resident pays the past due rent, and proceed with eviction.
- This process is known as Foreclosing the Right of Redemption.
- Prior to foreclosing a resident's right to redemption, HABC or the privately owned/managed site will attempt to collect the rent due and owing through home visits, rent conferences, correspondence, and offers of Tenant Readiness Training.

Procedural Noncompliance

HABC ACOP, Section 15.4.4

- Three instances of procedural noncompliance may result in lease termination.
- A noncompliance violation occurs when the resident fails to observe a procedure or requirement of HABC or the privately owned/managed site, but does not misrepresent a material fact, and there is no retroactive rent owed by the family.

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Consideration of Circumstances

CFR 966.4(l)(5)(vii)(B)

- In circumstances where the PHA is not mandated to evict, the PHA may consider all circumstances relevant to a particular case such as:
  - The seriousness of the offending action
  - The extent of participation by the leaseholder in the offending action
  - The effects that the eviction would have on family members not involved in the offending activity
  - The extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action

Federal Register 5/24/01

  - The useful purpose that would be served by terminating a tenancy on the basis of a crime committed by a guest or other person with whom the leaseholder had a minimal connection

CFR 966.4(l)(5)(vii)(D)

Consideration of Rehabilitation

- In determining whether to terminate tenancy for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse or for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, the PHA may:
  - Consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program
  - Has otherwise been rehabilitated successfully
- The PHA may require the tenant to submit evidence.

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CFR 966.4(l)(5)(vii)(C)

EXCLUSION OF CULPABLE HOUSEHOLD MEMBER

- The PHA may require a 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.

HABC ACOP, Section 15.6.1

- As an alternative to termination of the lease for criminal activity or alcohol abuse, HABC or the privately owned/managed site may consider exclusion of the culpable household member as documented in a memorandum of understanding.
- Such an alternative can be used for any other reason where such a solution appears viable in accordance with the policies of HABC or the privately owned/managed site.
- 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 request by HABC or the privately owned/managed site.

PHA ACCESS TO AND USE OF CRIMINAL RECORDS AND INFORMATION

EVIDENCE

CFR 966.4(l)(5)(iii)

- The PHA may evict by judicial action for criminal activity in accordance with the lease if the PHA determines that a covered person has engaged in the activity, *regardless of whether the covered person has been arrested or convicted of the activity.*

CFR 966.4(l)(5)(iii) and Federal Register 10/11/91, PH Lease & Grievance Procedures Preamble 3.3.5

- The PHA is not required to satisfy the standard of proof used for a criminal conviction; however, it must prove the elements of crime by the standard of proof used in civil proceedings.
  - The standard of proof used in civil proceedings is generally "a preponderance of the evidence," not "beyond a reasonable doubt," as in criminal proceedings.

PIH 2015-19

- The PHA is not authorized to terminate based on an arrest alone. An arrest alone is not proof that a participant has engaged in disqualifying criminal activity and therefore may not be used as the basis for a termination. The mere fact that someone has been arrested does not itself prove that the individual engaged in criminal activity. However, if evidence of an arrest is found, the PHA may consider other factors and circumstances surrounding the arrest as the basis for the denial. 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 a termination determination. Further, HUD's Office of General Counsel has stated that blanket termination policies may be discriminatory under the Fair Housing Act since these policies fail to consider the nature, severity, and recency of the circumstances surrounding the arrest or conviction.
- As evidence, the PHA may use either of the following:
  - Information that it has obtained independently, including criminal records and first-hand accounts of staff, residents, community members, or law enforcement officers
  - Criminal conviction records that it has obtained from a law enforcement agency under the authority of 24 CFR 5.903

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HABC ACOP, Section 15.8.1

- HABC or the privately owned/managed site will conduct criminal records checks when it has come to the attention of HABC or the privately owned/managed site, 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.
- To obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records.
- HABC and the privately owned/managed sites will not require the resident to pay the costs of a criminal records check.

LEASE TERMINATION NOTICE REQUIREMENTS

CFR 966.4(l)(3)(i), 24 CFR 966.8; Notice PIH 2021-29

- The PHA must give written notice of lease termination of:
  - 30 days in the case of failure to pay rent
    - All termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.
  - A reasonable period of time considering the seriousness of the situation, but not to exceed 30 days, in any of the following cases:
    - The health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened.

- Any member of the household has engaged in any drug-related criminal activity or violent criminal activity.
- Any member of the household has been convicted of a felony.
- If any of the following occurs, provided that a thirty (30) day notice of termination will be given in lieu of any shorter period if the situation does not result in a threat to the health or safety of other residents, HABC employees or contractors, or persons residing in the immediate vicinity of the premises:
  - If illegal drugs are seized from the unit by any law enforcement officer.
  - If any fire on the premises results from the deliberate, reckless, or negligent act of the resident, a member of the resident's household, a guest, or any other person under the resident's control, or from the inaction of such person(s). Examples of such conduct include but are not limited to: (a) arson; (b) a violation of the HABC Smoke-Free Policy; (c) a flammable material left within the reach of children; or (d) leaving an ignited stove or other heat-producing equipment unattended.
  - If a gun is seized from the resident or a household member by a law enforcement officer on or off the premises.
  - If the resident, a member of the resident's household, a guest, or any other person under the resident's control unlawfully, recklessly, or negligently possesses a gun or other weapon on the premises.
  - If the lease violation is due to the undisclosed or unauthorized occupancy of a person who is subject to a sex offender registration requirement in the unit.

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- If the resident refuses or impedes access to the unit to HABC as provided in the lease, to perform an inspection, repair, or maintenance, including inspection or treatment for bedbugs, rodents, and/or other pests, or the resident fails to perform pre-treatment preparation as required by the lease; or
- If the resident violates the HABC Pet Policy.

- 30 days in any other case unless state or local law allows a shorter notice period

CFR 966.4(l)(3)(ii)

- The notice of lease termination to the tenant must:
  - State specific grounds for termination
  - Inform the tenant of the tenant's right to:
    - Reply
    - Examine PHA documents directly relevant to the termination or eviction

- If the PHA is required to afford the tenant the opportunity for a grievance hearing, then:

CFR 966.4(l)(3)(ii)

  - The notice of lease termination must also inform the tenant of the tenant's right to request a hearing in accordance with the PHA's grievance procedures

CFR 966.4(l)(3)(iv)

  - The PHA may not terminate the tenancy until the time to request a grievance hearing has expired or, if the tenant requests a hearing in a timely manner, until the grievance process has been completed

CFR 966.4(l)(3)(v)

- When the PHA is *not* required to afford the tenant the opportunity for a grievance hearing, the notice of lease termination must:

CFR 966.4(l)(3)(v)(A)

  - State that the tenant is not entitled to a grievance hearing on the termination

CFR 966.4(l)(3)(v)(B)

  - Specify the judicial eviction procedure to be used by the PHA

CFR 966.4(l)(3)(v)(B)

  - State that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process

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CFR 966.4(l)(3)(v)(C)

- State whether the eviction is for:

CFR 966.51(a)(2)(i)(A)

  - A criminal activity that threatens the health or safety of other residents or PHA employees or their right to peaceful enjoyment of the premises

CFR 966.51(a)(2)(i)(B)

  - Any violent or drug-related criminal activity on or off the premises

CFR 966.4(l)(3)(iii)

- A notice to vacate required by state or local law may be combined with, or run concurrently with, a notice of lease termination.

CFR 966.4(l)(3)(iv)

  - Expiration of such a notice does not nullify any federally required right the tenant may have to a grievance hearing prior to termination of tenancy.

NONDISCRIMINATION LIMITATION

CFR 966.4(l)(5)(vii)(F)

- Actions carried out by PHAs relating to evictions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

NOTICE TO THE POST OFFICE

CFR 966.4(l)(5)(iii)(B)

- When a PHA evicts an individual or family from a public housing dwelling unit for criminal activity, the PHA must notify the local post office serving the unit that the individual or family is no longer residing there.

  - The intent here is to remove the need for evicted tenants to return to the premises of public housing to pick up their mail.

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Section 6.2 Grievance Procedures and Requirements

- Appendix I of HABC's ACOP contains HABC's grievance policy and procedures.

DEFINITIONS

CFR 966.53(a)

- **Grievance** - any dispute that a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affect the individual tenant's rights, duties, welfare, or status.

HABC ACOP, Appendix I

- HABC's ACOP defines a grievance as any dispute that a resident may have with respect to the management's (HABC) action or failure to act in accordance with the individual resident's lease or management procedures, which adversely affects the individual resident's rights, duties, welfare or status, including any dispute about the amount of rent that is charged.

CFR 966.53(f)

- **Tenant** - the adult person (or persons) (other than a live-in aide) who resides in the unit and satisfies either of the following conditions:
  - S/he executed the lease with the PHA as lessee of the dwelling unit.
  - S/he is the remaining head of household of the tenant family residing in the dwelling unit.

CFR 966.53(b)

- **Complainant** - any tenant whose grievance is presented to the PHA or at the project management office.

CFR 966.53(c)

- **Elements of due process** - an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:

  1. Adequate notice to the tenant of the grounds for the eviction action or termination of tenancy
  2. Right of the tenant to be represented by counsel
  3. Opportunity for the tenant to refute the evidence, including the right to confront or cross-examine witnesses and present any affirmative legal or equitable defense that the tenant may have
  4. A decision on the merits

CFR 966.53(e)

- **Hearing officer or panel** - an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms.

  - HABC uses a 5-person panel and a secretary

CFR 966.53(e)

- **Hearing panel** - a panel selected in accordance with the regulations to hear grievances and render a decision with respect thereto.

CFR 966.53(g)

- **Resident organization** - includes a resident management corporation.

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PURPOSE AND APPLICABILITY OF GRIEVANCE PROCEDURES

CFR 966.50

- Grievance procedures assure that a PHA tenant is afforded an opportunity for a hearing within a reasonable time regarding any PHA action or failure to act involving:
  - The tenant's lease with the PHA
  - PHA regulations that adversely affect the tenant's rights, duties, welfare, or status

CFR 966.51(b)

- Grievance procedures are not applicable to:
  - Disputes with nontenants
  - Disputes between tenants
  - Disputes between a live-in aide and the PHA
  - Disputes not involving the PHA
  - Certain disputes in due process states
  - Class grievances
- Grievance procedures are not intended to be a forum for initiating or negotiating PHA policy changes.

CFR 966.52(e)

- The PHA must meet regulatory due process requirements, as well as any additional requirements under federal, state, or local law.
  - Grievance hearings may be conducted in-person or remotely. Should the hearing be conducted remotely, the PHA must also meet the requirements for conducting remote grievance hearings specified in Notice PIH 2020-32.

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DUE PROCESS STATES

CFR 966.51(a)(2)

- In states where HUD has determined that a court provides the elements of due process, PHAs may bypass their grievance procedures in cases involving termination of tenancy for:
  - Any criminal activity that threatens the health or safety of other residents or employees of the PHA or their right to peaceful enjoyment of the premises
  - Any violent or drug-related criminal activity on or near the premises
  - Any criminal activity that resulted in a felony conviction of a household member

CFR 966.51(a)(2)(iv)

- PHAs may evict occupants through judicial eviction procedures without providing the opportunity for a hearing under their grievance procedures.

CFR 966.4(l)(3)(v)

- If a hearing is not required, the PHA must notify the tenant.

HABC ACOP, Appendix I

- Maryland law affords residents the opportunity for a court hearing that provides the basic elements of due process before eviction from the dwelling unit. Therefore, HABC's Grievance Policy shall be applicable to only the individual grievances defined above. The following are not subject to this Grievance Policy:
  - Refusal to pay rent when due unless the amount of rent charged is in dispute.
  - Disputes between residents not involving management.
  - Class grievances.
  - Any criminal activity that threatens the health, safety, or the right to peaceful enjoyment of the premises of other residents or employees of HABC.

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CFR 966.56(G)

LIMITED ENGLISH PROFICIENCY

- The PHA must comply with HUD's final rule concerning provision of language services for LEP persons.

ACCOMMODATION OF PERSON WITH DISABILITIES

CFR 966.7(a)

- For all aspects of its grievance procedures, the PHA must provide reasonable accommodation to the extent necessary for persons with disabilities.

CFR 966.56(h)(1)

- Reasonable accommodations that enable persons with disabilities to participate in a grievance hearing may include qualified sign language interpreters, readers, attendants, or accessible locations, including conducting the hearing remotely.

CFR 966.56(h)(2)

- If a tenant filing a grievance is visually impaired, all notices required under HUD regulations must be in an accessible format.

INFORMAL SETTLEMENT OF GRIEVANCES

The informal settlement is the first step in the grievance process. At many PHAs, the informal settlement is conducted by the property manager.

CFR 966.54

- Grievances must be personally presented by tenants, either orally or in writing, to the PHA office or project office so that they can be discussed informally and settled without a hearing.

CFR 966.54

- When a tenant presents a grievance to a PHA, the PHA must prepare and send to the tenant within a reasonable time a summary of the informal discussion.

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CFR 966.54

- The summary must specify:
  - The names of the participants
  - The dates of meeting
  - The nature of the proposed disposition of the tenant's complaint
  - The reasons for the proposed disposition
  - The procedures for obtaining a hearing if the tenant is not satisfied

HABC Informal Settlement of Grievance Policies

- The resident shall, either orally or in writing, present a description of the grievance to the management office within ten (10) working days after the HABC action or failure to act, giving rise to the grievance, so that the grievance may be discussed informally and settled without a formal hearing.
- The resident shall be given a receipt by management upon presentation of the grievance, stating the date of filing and the nature of his/her grievance, and a copy will be retained in the management resident file.
- The asset manager, in concert with the resident, will establish a mutually agreeable date, time and place for the informal discussion of the grievance.
- The asset manager shall mail to the resident within five (5) working days after the meeting, a summary of the informal discussion and his/her decision regarding the proposed disposition of the complaint and the specific reason therefor.
- The summary shall specify the procedures by which a hearing may be obtained if the resident is not satisfied with the decision.

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- A copy of the form shall be enclosed with the summary which is to be used by the resident to request a formal grievance hearing.

PROCEDURES GOVERNING THE HEARING

FR 3/8/16

- HUD's streamlining final rule, published March 8, 2017, made major changes to the regulations governing grievances. Many provisions which were covered by regulation are now controlled by PHA policy. These include requirements for:
  - Requesting a hearing
  - Selecting a hearing officer
  - Failure to request a hearing
  - Conducting the hearing

Notice PIH 2020-32

- Notice PIH 2020-32, issued November 20, 2020, also made changes to the requirements governing grievance hearings as they pertain to hearings that are conducted remotely. These include requirements for:
  - Identifying and resolving technological barriers prior to conducting the remote hearing
  - Presenting documents prior to a remote hearing
  - Updating the PHA's grievance procedure should the PHA opt for remote hearings

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TENANT'S RIGHTS

The complainant shall be afforded a fair hearing, which shall include:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. The tenant shall be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.
  - If the hearing is to be conducted remotely, this may involve providing documents via mail, email, or on a secure website or cloud-based server.
- The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf;
- The right to a private hearing unless the complainant requests a public hearing;
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies; and
- A decision based solely and exclusively upon the facts presented at the hearing.

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SCHEDULING OF HEARINGS

CFR 966.56(a)

- A hearing requested in accordance with HUD regulations and PHA grievance procedures must be promptly scheduled for a time and place reasonably convenient to both the tenant (also called the complainant) and the PHA.

HABC ACOP, Appendix I

- If the resident is not satisfied with the results of the informal discussion of grievance and desires a formal grievance hearing, the resident must submit a written request for a hearing to the management office, no later than ten (10) working days after the date resident receives the Summary of Discussion.

- If the resident does not make a request for a hearing within ten (10) working days after receipt of Summary of Discussion, management's disposition of the grievance shall become final.

- The resident may request a waiver of this ten (10) working days requirement. However, the resident bears the burden of establishing good cause for failing to proceed in accordance with this requirement. For purposes of this section, good cause includes, but is not limited to: (a) a verifiable medical condition that prevented the Resident from proceeding within the ten (10) working day period; (b) a documented absence from the unit which prevented the resident from receiving the summary of the informal discussion of grievance; or (c) a verifiable disability that prevented the resident from understanding or being aware of the summary of informal discussion of grievance. To request a waiver, the resident shall follow this procedure:

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- Within thirty (30) calendar days after receipt of Summary of Discussion, the resident shall submit to the Management Office a request for waiver of this ten (10) working days requirement.
- A hearing panel will be convened.
- The resident shall appear before the hearing panel to show why he or she failed to proceed within the given ten (10) working days period.
- If the hearing panel decides the resident has shown good cause for his or her failure to proceed within the ten (10) working days period, the hearing panel may waive the ten (10) working days requirement.
- The resident will be notified in writing of the decision of the hearing panel on the resident's waiver request. If the hearing panel grants such a waiver, it shall immediately set a date for a hearing on the resident's grievance, and the resident will be notified in writing of the hearing date.

• Failure to request a hearing shall not constitute a waiver by the resident of his or her right thereafter to contest management's action in disposing of the complaint in an appropriate judicial proceeding.

ESCROW

HABC ACOP, Appendix I

- In any grievance involving the amount of rent or any part thereof, as defined in the lease, which management claims is due under the lease, and which has not been paid, the resident shall pay to management at the time the resident files his or her request for a formal hearing under Section V. A above, an amount equal to the amount of rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The resident shall thereafter pay the same amount of the monthly rent to the management office, and the management office shall deposit the monies in an escrow account until the complaint is resolved by decision of the hearing panel. Following this decision, any amount due the resident from the escrow deposits shall be returned in full to him or her within thirty (30) calendar days. These requirements for escrow deposit must be waived by management:
  - In the event management determines, upon request by the resident, that the resident is unable to pay the escrow deposit because of a financial hardship exemption from the minimum rent requirements in accordance with the lease, or
  - For the portion of the resident's rent attributable to the imputed welfare income.
- Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure, if failure to make payment shall not constitute a waiver of any right the resident may have to contest management's disposition of his or her grievance in an appropriate judicial proceeding.

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REQUESTING A TRANSCRIPT

CFR 966.56(g)

- Either the tenant or the PHA may arrange in advance for a transcript of the hearing at the expense of the arranging party.

CFR 966.56(g)

- Any interested party may purchase a copy of the hearing transcript.

OTHER PROCEDURAL REQUIREMENTS

CFR 966.56(c)

- If the tenant or the PHA representative does not appear at a scheduled hearing, the hearing panel may do either of the following:
  - Postpone the hearing for no more than five business days
  - Decide that the missing party has waived his/her right to a hearing

Notice PIH 2020-32

- If the hearing is to be conducted remotely, the PHA must determine whether any technological barriers exist and attempt to resolve those barriers prior to the remote hearing.
  - If the tenant does not have proper technological access that will allow them to fully participate in the hearing, then the remote hearing should be postponed or an in-person alternative must be provided

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EVIDENCE

STANDARD OF PROOF - EVIDENCE

An eviction is a civil action, even if the termination/eviction is for criminal activity.

Ordinarily, the party seeking the change in the status quo has the burden of proof. The standard of proof in a civil case is preponderance of the evidence.

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

DECISION OF THE HEARING PANEL

CFR 966.57(a)

- The hearing panel must give the tenant and PHA a written decision, stating the reasons for the decision, within a reasonable time after the hearing (HABC policy states 10 working days from the hearing).
  - The PHA must retain a copy of the decision in the tenant's file.
  - The PHA must also maintain a log of all hearing officer decisions and must make the log available to hearing officers, prospective complainants, and representatives of prospective complainants.

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CFR 966.57(b)

- The decision is binding on the PHA unless the PHA's board of commissioners determines within a reasonable time (HABC policy states 30 calendar days), and promptly notifies the tenant, either of the following:
  - That the grievance does not concern PHA action or failure to act in accordance with the lease or PHA regulations that adversely affect the tenant's rights, duties, welfare, or status
  - That the decision is contrary to applicable federal, state, or local law; HUD regulations; or requirements of the annual contributions contract between HUD and the PHA

CFR 966.57(c)

- A decision favorable to the PHA does not waive or otherwise affect any right the tenant may have to pursue the matter through appropriate judicial proceedings.
- If the hearing decision upholds the PHA's termination and the tenant does not move out of the unit, the PHA will pursue the eviction action in court.

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TERMINATION AND EVICTION PROCESS

Issue 30-Day Notice

(Notice to terminate tenancy combined with notice to vacate, pursuant to state laws)

Grievance Procedure Applies

Informal Hearing

Formal Hearing

Determination Issued

Notice to Vacate
(If required)

Court Appearance

Trial, if Requested

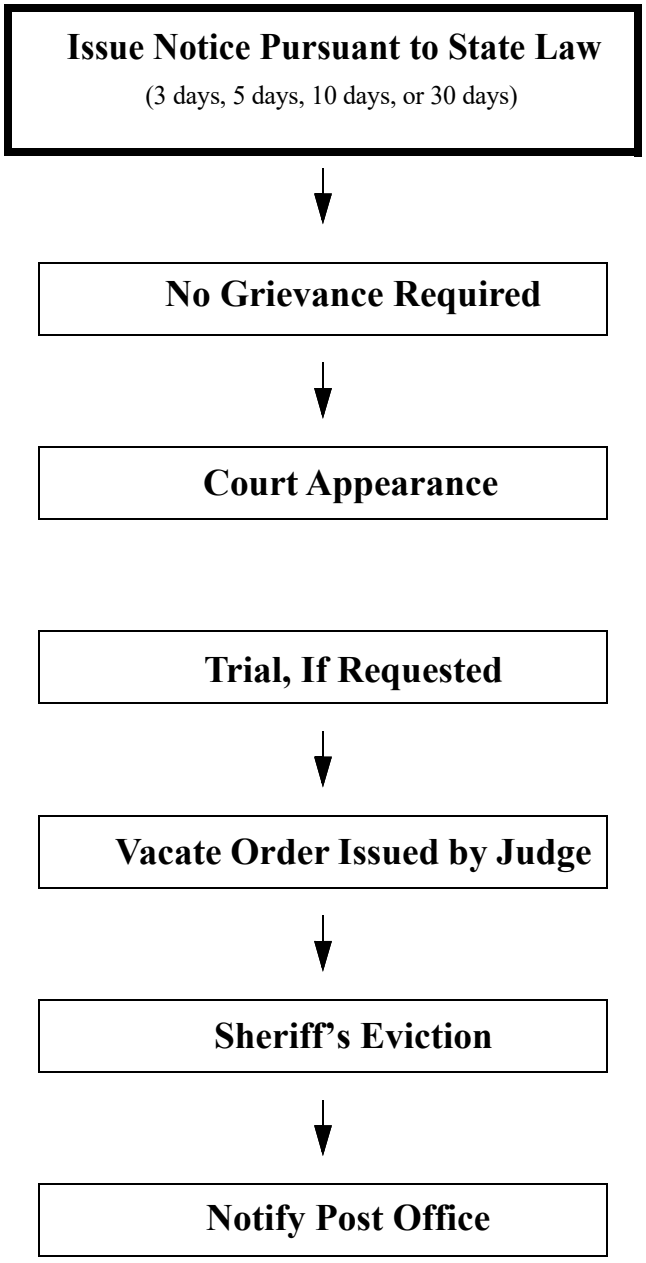
Vacate Order Issued by Judge

Sheriff's Eviction

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TERMINATION AND EVICTION PROCESS

Causes Not Requiring Hearing Because of Due Process Determination



REPAYMENT AGREEMENT POLICY

Notice PIH 2018-18

- If residents were charged less rent than required due to underreporting or failure to report, they are required to reimburse the PHA for the difference between what should have been charged and the rent that was charged. If the resident refuses to enter into a repayment agreement, the PHA must terminate the family's tenancy. Amnesty or debt forgiveness programs are not authorized by HUD. The PHA must determine the retroactive rent amount as far back as the PHA has records of the family's reported income. The monthly retroactive payment plus the tenant rent should be affordable for the family and should not exceed 40 percent of the family's monthly adjusted income, although the PHA has the discretion to set the repayment amount. Tenants have the option to pay the balance in monthly installments, a lump sum, or a combination of the two.

- Repayment agreements must:
  - Be in writing
  - Be dated
  - Be signed by both the tenant and the PHA
  - Include the total amount of retroactive rent owed
  - Include the amount of the lump sum payment made at the time of execution (if any)
  - Include the monthly rent amount

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- Before implementing any tenant repayment agreements, a PHA should have in place a payment agreement policy and procedures. At a minimum, repayment agreements must contain the following provisions:
  - Reference to the applicable lease section that states that residents who fail to report or underreport income may be subject to termination
  - The monthly retroactive rent amount as well as the family's regular rent amount
  - Information on how the terms of the agreement may be renegotiated if there is an increase or decrease in family income
  - Late or missed payments may result in termination

HABC Policies

HABC ACOP, Section 23.9

- A "Payment Agreement" is a document entered into between HABC or a privately owned/managed site and the head of household, spouse/co-head, if any, who owes a debt to HABC or the privately owned/managed site in connection with the tenancy.
- The payment agreement contains details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to HABC or the privately owned/managed site upon default of the agreement.
- Any payment agreement between HABC or a privately owned/managed site and a family must be signed and dated by HABC or the privately owned/managed site and by the head of household and spouse/co-head (if applicable).

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- The maximum amount for which HABC and the privately owned/managed sites will enter into a payment agreement with a family is $2,500.00, except as provided below.
- The maximum length of time HABC and the privately owned/managed sites will enter into a payment agreement with a family is 24 months. All payments are due by the close of business on the 1st day of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.
- Payment agreements will be executed between HABC or the privately owned/managed site and the head of household and co-head/spouse, if any.
- The monthly payment agreement amount and the monthly rent amount together may not exceed 40% of the family's monthly adjusted income.
- If a family underreported or failed to report income and a payment agreement is executed, the following provisions will be included:
  - A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which HABC or the privately owned/managed site may terminate assistance because of a family's action or failure to act.
  - A statement clarifying that each month the family not only must pay to HABC or the privately owned/managed site the monthly payment amount specified in the agreement but must also pay to HABC or the privately owned/managed site the monthly tenant rent.

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

- Monthly payments may be decreased in cases of financial hardship.
  - Families must make a written request for a hardship consideration, which must include supporting documentation of the financial hardship.
  - HABC or the privately owned/managed site will verify the financial hardship and provide a written response on the decision regarding the hardship request.
- Payment agreements will follow the schedule below; however, HABC reserves the right to modify the maximum term on a case-by-case basis.

Initial Payment Due: (% of Total Amount)	Amount Owed	Maximum Term
25%	0 - $500	6 month
25%	$500 - $1,000	10 month
50%	$1,001 - $2,500	21 month

- A payment will be in arrears if the payment has not been received by the close of the business day on which the payment was due, and prior approval for the missed payment has not been given by HABC or the privately owned/managed site.
  - If the due date is on a weekend or a holiday, the due date will be at the close of the next business day.

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- If the family's payment agreement is in arrears, HABC or the privately owned/managed site will send the family a delinquency notice giving the family 10 working days to make the late payment. If the payment is not received by the due date set forth in the delinquency notice, it will be considered a breach of the agreement and HABC or the privately owned/managed site may terminate tenancy in accordance with the termination policies.
- HABC or the privately owned/managed site may also require the family to pay the balance in full and/or pursue civil collection of the balance due, in addition to termination of tenancy.

- If the family has a payment agreement in place and incurs an additional debt to HABC or the privately owned/managed site, the payment agreement may be amended so that the additional amounts owed by the family will be added to the existing payment agreement if the payments can be completed within 24 months of the date of the original agreement and do not exceed 40% of the family's adjusted monthly income.
- If the family requests a transfer to another unit and has a payment agreement in place and the payment agreement is not in arrears, the family will be permitted to move. Exceptions for families who are in arrears will be considered on a case-by-case basis and make take into account situations including but not limited to emergencies, reasonable accommodations and occupancy standards.

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Termination Actions for Drug Related and Criminal Activity

	PHA ACTION			
	May Include in Lease	**Must Include in Lease**	**May Evict**	**Must Evict**
Alcohol abuse by household member that threatens the health, safety, or peaceful enjoyment of residents		X	X	
Illegal use of drugs by household member		X	X	
Pattern of drug use by household member that threatens or interferes with the health, safety or peaceful enjoyment of residents		X	X	
Household member furnishing false or misleading information about illegal drug use, alcohol abuse, or rehab of illegal drug user or alcohol abuser		X	X	
Drug crime on or off premises by tenant, household member, or guest		X	X	
Drug crime on premises by other person under tenant's control		X	X	
Criminal activity by tenant, household member, guest, or other person under tenant's control that threatens the health, safety, or peaceful enjoyment of residents, PHA staff, or persons residing in immediate vicinity		X	X	
Conviction for manufacturing or producing methamphetamine on premises of federally assisted housing		X		X
Parole violation by tenant	X		X	
Tenant fleeing to avoid prosecution for a felony	X		X	
Discovery that a member of the assisted household was subject to a lifetime sex offender registration requirement		X		

DOCUMENTATION

- Consistent, accurate documentation of file is extremely important. Such documentation:
  - Demonstrates that the PHA is aware of problems
  - Demonstrates what steps or measures the PHA has taken to remedy the situation
  - Provides history in case of family transfers or when there are staff changes
  - Can be used as evidence in advocacy of the family
  - Can be used as evidence in court.
- Documentation should be objective. ***Behaviors*** and ***events*** should be described, ***not*** opinions or judgments.
  - For example, "The So-and-So family are bad tenants" is not helpful documentation.
  - An accurate description of events might be, "The office has received four complaints in the last month from two neighbors who state that the Miller family played loud music until 2:00 am."
- Staff should document the date and time (or general time, such as "in the morning") of any reported complaint, occurrence, or reported occurrence.
- Document names and unit numbers of any witnesses and/or complainants. Include telephone numbers when possible.
- Ask complainants if they would be willing to testify at a hearing or in court.

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PUBLIC HOUSING LEASE AND TERMINATIONS QUIZ

Circle the letter of the correct answer.

1. Charges assessed for damages, late payments, and excess utility consumption are not due and collectible until:
   a. Two weeks after the PHA gives written notice of the charges
   b. The first of the month after the PHA gives written notice of the charges
   c. The first of the second month after the PHA gives written notice of the charges
   d. Thirty days after the PHA gives written notice of the charges

2. A live-in aide:
   a. Must be a licensed health care professional
   b. Can never be a relative of the assisted family
   c. Can never work outside the home
   d. Must be necessary for the care and well-being of a family member who is either elderly or disabled
   e. All of the above

3. PHAs must develop lease requirements which permit the eviction of tenants who commit serious or repeated violations of the terms of the lease.
   a. True
   b. False

4. Which of the following actions does not constitute grounds for termination of the lease?
   a. Consistently being late with the rent for several months
   b. Tenant persists in creating a health and sanitation problem through improper disposal of waste and garbage
   c. Tenant was arrested for illegal drug activity across town
   d. Tenant consumed large quantities of alcohol in their unit

5. The PHA has the right to deny the addition of any adult to the lease of an existing resident family if the PHA has evidence that the admission of that person would pose a serious threat to other resident families.
   a. True
   b. False

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6. When deciding whether or not to permit the addition of a new occupant to an existing resident family, consideration may be given to:
   a. Whether they owe money to the PHA from a previous tenancy
   b. Whether they have a history of drug-related or other criminal activity
   c. Whether they have a history of causing neighborhood disturbances
   d. All the above can be considered

7. If the family has a repayment agreement in place:
   a. It may not be amended if the family incurs a new debt
   b. It may be amended to add a new debt, and a new 24-month period is started based on the addition of the new debt
   c. It may be amended to add a new debt provided the debt can be repaid within the original 24-month period from the date of the original agreement

8. "Other person under the tenant's control" always includes a person on the premises solely for legitimate commercial purposes (e.g. tenant ordered a pizza delivered to the unit).
   a. True
   b. False

9. The PHA may allow legal profit-making activity in the unit.
   a. True
   b. False

10. The PHA must offer alternative accommodation if it would be dangerous to remain in the damaged unit:
    a. Unless the damage was caused by the family
    b. Unless the damage was caused by the family or their guests
    c. Unless the PHA intends to evict the family
    d. Under all circumstances

11. A PHA may not require, as a lease obligation, tenants to perform any maintenance tasks under any circumstances.
    a. True
    b. False

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12. The lease must state that notices from the PHA to the tenant will be:
    a. Communicated through the tenant newsletter posted in the central and/or project offices
    b. Verbally presented to the tenant or an adult household member
    c. In writing, delivered to the tenant or an adult household member or sent prepaid first-class mail properly addressed to the tenant
    d. All of the above

13. If a person is visually impaired, any notice must be:
    a. Read to them
    b. Given to them in the form of a tape recording
    c. Provided in Braille
    d. In an accessible format

14. In which of the following grounds for eviction might a tenant not be entitled to a grievance hearing?
    a. Non-payment of maintenance charges
    b. Tenant caused damages to unit
    c. Drug-related criminal activity
    d. Failure to abide by pet rules

15. The PHA must notify the post office any time a family:
    a. Moves in
    b. Moves out
    c. Is evicted for criminal activity
    d. Is evicted for any violation

16. A family has the right to request a hearing for all of the following except:
    a. Required transfer
    b. Charges for damages beyond normal wear and tear
    c. PHA policy change to more strict reporting requirements
    d. Termination of lease
    e. All are adverse actions

17. Besides the tenant, another person who may grieve would be:
    a. Remaining family member, but only if an adult
    b. The live-in aide
    c. Any dependent
    d. A service animal

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18. A resident is defined as:
    a. The head of household
    b. All adult family members who sign the lease
    c. All adult family members
    d. All family members

19. The PHA may evict for criminal activities not specified in the regulations, as long as it is stated in the lease and ACOP.
    a. True
    b. False

20. A PHA can terminate the lease for non-compliance with community service requirements six months into the lease term, if they have clear cut evidence of the non-compliance.
    a. True
    b. False

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Notes

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CHAPTER 7 Eligibility & Occupancy Study Guide

Answer the following questions:

1. What is the difference between project-based and tenant-based subsidies?

2. List three mandatory HUD references:

FAIR HOUSING

Define the following terms:

3. Reasonable accommodation definition of disability:

4. HUD definition of disability:

5. Which of the following ***may*** a PHA ask a person with disabilities
   a. The nature and extent of their disability
   b. If a person is applying for housing designated for disabled individuals, whether that individual meets the definition of disability
   c. To disclose their confidential medical records

6. It is permissible for the PHA to adopt a policy in their ACOP limiting verification of a disability to attending physicians only.

   ☐ True ☐ False

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7. List two reasons a PHA may deny a reasonable accommodation request:

8. List the three criteria for approval of a live-in aide:
   1)
   2)
   3)

ELIGIBILITY

Define the following terms:

9. Elderly family:

10. Disabled family:

11. Cohead:

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12. Non-Elderly Person with a Disability:

13. 50% of area median income is the _____ income limit
    80% of area median income is the _____ income limit
    Each fiscal year, at least _____ of the HABC's new admissions must be to families whose incomes do not exceed 50% of area median income for Baltimore City.

14. Decide whether the following families are eligible for assistance (E), ineligible for assistance (IE) or would receive prorated assistance (P):

    1) Head: eligible citizen, age 64
       Spouse: ineligible noncitizen, age 60 _____
    2) Head: ineligible noncitizen, age 25
       Spouse: ineligible noncitizen, age 26
       Child: eligible citizen, age 3 _____
    3) Head: eligible noncitizen, age 61 _____
    4) Head, ineligible noncitizen, age 37
       Spouse: eligible citizen, age 35 _____

15. List the three exemptions to the Social Security number requirements:

    1) _____
    2) _____
    3) _____

16. A live-in aide is not considered a remaining family member.

    ☐ True ☐ False

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WAITING LIST MANAGEMENT

17. Applicants may not be on both the location-based CALBWL and the first available CAFAWL waiting lists.

    ☐ True ☐ False

18. An eligible elderly/disabled family may be on the CAMPBWL waiting list and up to _____ developments on the CAMPBWL waiting list.

19. A PHA may never skip a family on the waiting list for any reason.

    ☐ True ☐ False

20. Applicants may change their preference status at any time.

    ☐ True ☐ False

21. What is the From HUD 92006?

22. Describe HABC's residency preference:

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SUITABILITY

23. HABC will deny eligibility for 18 months for a misdemeanor conviction.

    ☐ True ☐ False

24. HABC will run criminal background check on all members of the household who are _____ years or older.

25. List two of the five mandatory denials for criminal activity:

    _____

    _____

    _____

    _____

    _____

26. A family will receive a $ _____ leasing incentive if they lease a hard to lease unit but the family must remain in the unit for _____ year.

27. Previous debts to HABC or any other PHA from public housing or HCV must be paid in full before admission.

    ☐ True ☐ False

28. When an applicant selects up to 3 units on the location based CALBWL list, refusal of one unit offer without good cause results in removal from all selected developments covered by that list.

    ☐ True ☐ False

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29. If a family has a change in family size prior to receiving a unit offer and the change results in a change in unit size, what happens?

OCCUPANCY

Define the following terms:

30. Mixed population development:

31. General occupancy/family development:

32. HUD requires that all PHAs adopt occupancy standards of two persons per bedroom for all of their developments.

☐ True ☐ False

33. HABC does not determine who shares a bedroom, but there must be at least one person per bedroom.

☐ True ☐ False

34. HABC's occupancy standards state that household members of the opposite sex are not required to share a bedroom.

☐ True ☐ False

35. Applicants may not request to be listed on a smaller or larger bedroom size waiting list.

☐ True ☐ False

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LEASING

36. The PHA must abate or repair defects hazardous to life, health, and safety within _____ hours.

37. Which of the following is allowable under the public housing lease?
    a. Legal profit making activities
    b. Allowing a relative to move in without notifying the PHA
    c. Renting rooms to boarders or lodgers
    d. Subleasing the unit

38. Reasonable advance notice _____ (is/is not) needed to enter a unit for nonemergency purposes such as routine inspections and maintenance. Reasonable advance notice _____ (is/is not) needed to enter a unit if there is cause to believe that an emergency exists.

39. How much is the security deposit?

40. When a unit has been damaged and is dangerous, and the PHA cannot repair it quickly, the PHA must offer the family alternative accommodations:
    a. Only if the family did not cause the damage
    b. Only if the damage was the result of a natural disaster
    c. Only if the PHA does not plan on terminating the family's assistance
    d. In all cases

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REGULAR AND INTERIM ACTIVITIES

41. For residents paying flat rent, the PHA will review the income of such families once every _____ years.

42. If 100% of a family's income is from a fixed source, their reexam occurs every _____ years.
If a family has zero or minimal income, their reexam occurs _____

43. The effective date of an increase resulting from a regular reexam is: _____
The effective date of an interim increase is: _____
The effective date of an interim decrease is: _____
If a family causes a delay the effective date of an interim decrease is: _____

    a. The first of the month after 30-day written notice
    b. The first of the month following completion of the reexamination
    c. The first of the month following the month in which the change was reported
    d. Retroactive to the date the increase would have been effective

44. If a nonexempt family member has violated the community service requirement, the PHA may not renew the lease upon the expiration of the lease term unless:

45. The family's regular reexam date does not change when a member is added or removed.

    ☐ True ☐ False

46. Except for zero or minimal income individuals, both income-based and flat rent families are not required to report increases in income or assets between regular reexams.

    ☐ True ☐ False

47. Which families are exempt from the limit on voluntary interims?

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TRANSFERS

48. When they are implemented, only existing public housing families may request a scattered sites incentive transfer.

☐ True ☐ False

49. A resident must be in good standing to request a transfer. No exceptions may be made.

☐ True ☐ False

50. HABC pays reasonable moving costs for certain types of transfers.

☐ True ☐ False

51. If a family transfers from one conventional site to another:
    a. Their reexam date stays the same
    b. Their reexam date is the new lease date

52. If a family transfers from a conventional site to a privately/owned managed site:
    a. Their reexam date stays the same
    b. Their reexam date is the new lease date

PETS

53. A PHA's pet policy applies to:
    a. Pets only
    b. Pets and service animals only
    c. Pets and emotional support animals but not service animals

54. HABC's pet policy applies to HABC developments and privately owned sites.

☐ True ☐ False

55. Residents may own no more than three domesticated pets.

☐ True ☐ False

56. There is no weight limit on the size dog a resident may own.

☐ True ☐ False

57. The refundable pet deposit is $ _____

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TERMINATIONS

58. List two examples of factors a PHA may consider when deciding whether or not to terminate a family's assistance for discretionary terminations:

59. List three examples of mandatory terminations:

60. All of the following statements are true about terminating tenancy, ***except***:
    a. Tenancy does not terminate until the right to a grievance hearing has expired, with the exception of certain evictions in due process states
    b. The PHA may terminate for criminal activity in accordance with the lease regardless of whether there has been an arrest or conviction
    c. In most cases the PHA may terminate based on a preponderance of evidence, except for criminal terminations which always require evidence beyond a reasonable doubt
    d. Generally, the PHA may evict a tenant only by bringing court action

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61. In order to terminate the lease for nonpayment of rent, the PHA must give a _____ notice
In order to terminate the lease for other good cause, the PHA must give a _____ notice
In order to terminate the lease when the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity is threatened, the PHA must give a _____ notice

a. Reasonable period of time considering the seriousness of the situation, not to exceed 30 days
b. 30-day, unless state or local law allows a shorter period
c. 30-day notice

62. For each of the following household members, indicate whether they MAY or MAY NOT request a grievance hearing:

1) Live in aide _____
2) Remaining adult family member _____
3) Service animal _____
4) Head of household _____
5) Thirteen-year-old son of the head of household _____
6) Twenty five-year-old other adult who has signed the lease _____

63. If a family is absent from the unit for more than **30** consecutive calendar days, and the family does not adequately verify that they are living in the unit, lease terminates.

64. An over-income family must have their tenancy terminated within 6 months of the initial over-income determination.

☐ True ☐ False

65. When a family is evicted for criminal activity, the PHA must notify the local post office that the family is no longer residing in the unit.

☐ True ☐ False

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Notes

CHAPTER 8 Answers to Eligibility & Occupancy Study Guide

Answer the following questions:

1. What is the difference between project-based and tenant-based subsidies?

Project-based subsidies are tied to the unit. Tenant-based subsidies are tied to the family.

2. List three mandatory HUD references:

Code of Federal Regulations, current PIH notices, forms required by HUD, legal opinions from OGC, handbooks, current law

FAIR HOUSING

Define the following terms:

3. Reasonable accommodation definition of disability:

The broader of the two definitions of disability, used when a person with disabilities requests a reasonable adjustment to remove a barrier to program participation or use of their unit or PHA facilities.

4. HUD definition of disability:

The more narrowly defined of the two definitions of disability, used for purposes of determination of eligibility as a disabled family and qualifying for waiting list preferences and HUD allowances. HUD incorporates the Social Security Administration definition of disability in its definition.

5. Which of the following ***may*** a PHA ask a person with disabilities
   a. The nature and extent of their disability
   b. If a person is applying for housing designated for disabled individuals, whether that individual meets the definition of disability **
   c. To disclose their confidential medical records

6. It is permissible for the PHA to adopt a policy in their ACOP limiting verification of a disability to attending physicians only.

[ ] True [F] False

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7. List two reasons a PHA may deny a reasonable accommodation request:

1) **It would cause an undue administrative or financial burden**
2) **The request was not made by or on behalf of a person with disabilities**
3) **There is no disability-related need for the accommodation**
4) **It would fundamentally alter the nature of the PHA's operations (wave essential program requirements)**
5) **The person's disability poses a direct threat or substantial risk of harm to others, that cannot be controlled with a reasonable accommodation**

8. List the three criteria for approval of a live-in aide:

1) **Essential to the care and well being of an elderly person, near-elderly person, or person with disabilities**
2) **Not legally obligated to provide support to that person**
3) **Would not be living in the unit except to provide supportive services**

ELIGIBILITY

Define the following terms:

9. Elderly family:

A family whose head, spouse, cohead or sole member is at least 62 years of age.

10. Disabled family:

A family whose head, spouse, cohead or sole member is a person with disabilities.

11. Cohead:

A person equally responsible for the lease with the head of household. There can only be one cohead per household, and a family cannot have both a spouse and a cohead. A dependent may never be cohead, and the cohead must have legal capacity to enter into a lease.

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12. Non-Elderly Person with a Disability:

A family whose sole member, head of household, or spouse is:

A person with a disability who is under 62, and

Who is eligible for a one-bedroom unit or for a two-bedroom unit because a second bedroom is needed for disability related reasons

13. 30% of area median income is the **extremely low** income limit
50% of area median income is the **very low** income limit
80% of area median income is the **low** income limit
Each fiscal year, at least **75%** of the HABC's new admissions must be to families whose incomes do not exceed 50% of area median income for Baltimore City.

14. Decide whether the following families are eligible for assistance (E), ineligible for assistance (IE) or would receive prorated assistance (P):

1)	Head: eligible citizen, age 64 Spouse: ineligible noncitizen, age 60	**P**
2)	Head: ineligible noncitizen, age 25 Spouse: ineligible noncitizen, age 26 Child: eligible citizen, age 3	**P**
3)	Head: eligible noncitizen, age 61	**E**
4)	Head, ineligible noncitizen, age 37 Spouse: eligible citizen, age 35	**P**

15. List the three exemptions to the Social Security number requirements:

1) **Noncontending household members**
2) **Current program participants who were at least 62 on or before 1/31/10 and have not previously disclosed a SSN**
3) **Household members who have already provided a SSN verified through EIV do not need to reverify**

16. A live-in aide is not considered a remaining family member.

[**T**] True [ ] False

WAITING LIST MANAGEMENT

17. Applicants may not be on both the location-based CALBWL and the first available CAFAWL waiting lists.

[ ] True [F] False

18. An eligible elderly/disabled family may be on the CAMPBWL waiting list and up to **2** developments on the CAMPBWL waiting list.

19. A PHA may never skip a family on the waiting list for any reason.

[ ] True [F] False

20. Applicants may change their preference status at any time.

[T] True [ ] False

21. What is the From HUD 92006?

Supplemental Information to Application

Form must be provided to family "at the time of application"

Opportunity to give contact information of friend, family member, organization, advocate

22. Describe HABC's residency preference:

HABC grants priority in each preference category where the head, cohead, or spouse is a resident of Baltimore City/County

Applicants who do not live in Baltimore City/ County are only considered for assistance after the waiting list is exhausted of applicants who live in Baltimore City regardless of preference

Applicants who are working or have been hired to work in Baltimore City/County are also given a residency preference

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SUITABILITY

23. HABC will deny eligibility for 18 months for a misdemeanor conviction.

[T] True [ ] False

24. HABC will run criminal background check on all members of the household who are **14** years or older.

25. List two of the five mandatory denials for criminal activity:

1) **Must prohibit admission for three years from the date of eviction if a household member has been evicted for drug-related criminal activity**
2) **Any member of the household is subject to a lifetime registration requirement as a sex offender**
3) **Reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol or use or pattern of use of illegal drugs rises to the level of a threat**
4) **Any household member is currently engaged in illegal use of a drug**
5) **Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing**

26. A family will receive a $ **500** leasing incentive if they lease a hard to lease unit but the family must remain in the unit for **1** year.

27. Previous debts to HABC or any other PHA from public housing or HCV must be paid in full before admission.

[T] True [ ] False

28. When an applicant selects up to 3 units on the location based CALBWL list, refusal of one unit offer without good cause results in removal from all selected developments covered by that list.

[T] True [ ] False

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29. If a family has a change in family size prior to receiving a unit offer and the change results in a change in unit size, what happens?

If change results in a change in unit size, family is placed back on the waiting list for the appropriate size unit with their original date/time of application

OCCUPANCY

Define the following terms:

30. Mixed population development:

A development, or portion of a development, that is reserved for elderly families and disabled families.

31. General occupancy/family development:

Referred to as a "family" development. PHAs may not give a preference to one protected class over another in these developments.

32. HUD requires that all PHAs adopt occupancy standards of two persons per bedroom for all of their developments.

[ ] True [F] False

33. HABC does not determine who shares a bedroom, but there must be at least one person per bedroom.

[T] True [ ] False

34. HABC's occupancy standards state that household members of the opposite sex are not required to share a bedroom.

[T] True [ ] False

35. Applicants may not request to be listed on a smaller or larger bedroom size waiting list.

[ ] True [F] False

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LEASING

36. The PHA must abate or repair defects hazardous to life, health, and safety within **24** hours.

37. Which of the following is allowable under the public housing lease?
    a. Legal profit making activities **
    b. Allowing a relative to move in without notifying the PHA
    c. Renting rooms to boarders or lodgers
    d. Subleasing the unit

38. Reasonable advance notice **is** (is/is not) needed to enter a unit for nonemergency purposes such as routine inspections and maintenance. Reasonable advance notice **is not** (is/is not) needed to enter a unit if there is cause to believe that an emergency exists.

39. How much is the security deposit?

Security deposit is $50 or an amount not to exceed one month's rent, whichever is lower.

40. When a unit has been damaged and is dangerous, and the PHA cannot repair it quickly, the PHA must offer the family alternative accommodations:
    a. Only if the family did not cause the damage
    b. Only if the damage was the result of a natural disaster
    c. Only if the PHA does not plan on terminating the family's assistance
    d. In all cases **

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REGULAR AND INTERIM ACTIVITIES

41. For residents paying flat rent, the PHA will review the income of such families once every **three** years.

42. If 100% of a family's income is from a fixed source, their reexam occurs every **three** years.
If a family has zero or minimal income, their reexam occurs **yearly**

43. The effective date of an increase resulting from a regular reexam is: **a**
The effective date of an interim increase is: **a**
The effective date of an interim decrease is: **c**
If a family causes a delay the effective date of an interim decrease is: **d**

a. The first of the month after 30-day written notice
b. The first of the month following completion of the reexamination
c. The first of the month following the month in which the change was reported
d. Retroactive to the date the increase would have been effective

44. If a nonexempt family member has violated the community service requirement, the PHA may not renew the lease upon the expiration of the lease term unless:

The tenant and any other noncompliant member enter into a written agreement to cure the noncompliance by making up the required hours over the next 12-month lease term, or the family provides written assurance that the tenant or other noncompliant member no longer resides in the unit.

45. The family's regular reexam date does not change when a member is added or removed.

T True ☐ False

46. Except for zero or minimal income individuals, both income-based and flat rent families are not required to report increases in income or assets between regular reexams.

T True ☐ False

47. Which families are exempt from the limit on voluntary interims?

Elderly and disabled households and families on FSS.

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TRANSFERS

48. When they are implemented, only existing public housing families may request a scattered sites incentive transfer.

[T] True [ ] False

49. A resident must be in good standing to request a transfer. No exceptions may be made.

[ ] True [F] False

50. HABC pays reasonable moving costs for certain types of transfers.

[T] True [ ] False

51. If a family transfers from one conventional site to another:
    a. Their reexam date stays the same **
    b. Their reexam date is the new lease date

52. If a family transfers from a conventional site to a privately/owned managed site:
    a. Their reexam date stays the same
    b. Their reexam date is the new lease date **

PETS

53. A PHA's pet policy applies to:
    a. Pets only **
    b. Pets and service animals only

54. HABC's pet policy applies to HABC developments and privately owned sites.

[ ] True [F] False

55. Residents may own no more than three domesticated pets.

[ ] True [F] False

56. There is no weight limit on the size dog a resident may own.

[ ] True [F] False

57. The refundable pet deposit is $ **50**

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TERMINATIONS

58. List two examples of factors a PHA may consider when deciding whether or not to terminate a family's assistance for discretionary terminations:

1) **The seriousness of the offense**
2) **The effects on other noninvolved family members**
3) **Whether the individual has been rehabilitated successfully**
4) **The extent of participation of the leaseholder**
5) **The extent the leaseholder has shown personal responsibility and taken steps to prevent or mitigate the offending action**
6) **The useful purpose that would be served by terminating tenancy**

59. List three examples of mandatory terminations:

1) **SSN disclosure requirements not met**
2) **Failure to accept the PHA's offer of a lease revision to an existing lease**
3) **Any family member fails to sign and submit required consent forms**
4) **Noncompliance with community service requirements (provided PHA has given opportunity to cure and family fails to cure or remove noncompliant member)**
5) **The PHA determines that a family member has knowingly permitted an ineligible noncitizen to reside in the unit as an unauthorized boarder**
6) **Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing**

60. All of the following statements are true about terminating tenancy, ***except***:
   a. Tenancy does not terminate until the right to a grievance hearing has expired, with the exception of certain evictions in due process states
   b. The PHA may terminate for criminal activity in accordance with the lease regardless of whether there has been an arrest or conviction
   c. In most cases the PHA may terminate based on a preponderance of evidence, except for criminal terminations which always require evidence beyond a reasonable doubt **
   d. Generally, the PHA may evict a tenant only by bringing court action

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61. In order to terminate the lease for nonpayment of rent, the PHA must give a **c** notice
In order to terminate the lease for other good cause, the PHA must give a **b** notice
In order to terminate the lease when the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity is threatened, the PHA must give a **a** notice

a. Reasonable period of time considering the seriousness of the situation, not to exceed 30 days
b. 30-day, unless state or local law allows a shorter period
c. 30-day notice

62. For each of the following household members, indicate whether they MAY or MAY NOT request a grievance hearing:

1)	Live in aide	**may not**
2)	Remaining adult family member	**may**
3)	Service animal	**may not**
4)	Head of household	**may**
5)	Thirteen-year-old son of the head of household	**may not**
6)	Twenty five-year-old other adult who has signed the lease	**may**

63. If a family is absent from the unit for more than **30** consecutive calendar days, and the family does not adequately verify that they are living in the unit, lease terminates.

64. An over-income family must have their tenancy terminated within 6 months of the initial over-income determination.

[ ] True [**F**] False

65. When a family is evicted for criminal activity, the PHA must notify the local post office that the family is no longer residing in the unit.

[**T**] True [ ] False

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Notes

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