Oakland Housing Authority

Admissions and Continued Occupancy Policy

Updated and Approved

April 3, 2017

OAKLAND HOUSING AUTHORITY
ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

TABLE OF CONTENTS

Introduction

ABOUT THE ACOP Intro-1
REFERENCES CITED IN THE ACOP Intro-2
RESOURCES CITED IN THE MODEL ACOP Intro-3

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION 1-1

PART I: OHA

1-I.A. OVERVIEW 1-1
1-I.B. ORGANIZATION AND STRUCTURE OF OHA 1-1
1-I.C. OHA MISSION 1-1
1-I.D. OHA'S COMMITMENT TO ETHICS AND SERVICE 1-1

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM 1-3
1-II.B. PUBLIC HOUSING PROGRAM BASICS 1-3
1-II.C. PUBLIC HOUSING PARTNERSHIPS 1-4
1-II.D. APPLICABLE REGULATIONS 1-7

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY 1-8
1-III.B. CONTENTS OF THE POLICY 1-8
1-III.C. UPDATING AND REVISING THE POLICY 1-9

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION 2-1

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW 2-2
2-I.B. NONDISCRIMINATION 2-3

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW 2-5
2-II.B. DEFINITION OF REASONABLE ACCOMMODATION 2-6
2-II.C. REQUEST FOR AN ACCOMMODATION 2-7
2-II.D. VERIFICATION OF DISABILITY 2-8
2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION 2-10
2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS 2-12
2-II.G. PHYSICAL ACCESSIBILITY 2-13
2-II.H. DENIAL OR TERMINATION OF ASSISTANCE 2-14

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

2-III.A. OVERVIEW 2-15
2-III.B. LANGUAGE ASSISTANCE PLAN FOR NON- AND LIMITED ENGLISH SPEAKING APPLICANTS AND TENANTS (LEP PLAN) 2-16

EXHIBITS

2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS 2-17

Chapter 3

ELIGIBILITY

INTRODUCTION 3-1

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW 3-2
3-I.B. FAMILY AND HOUSEHOLD 3-2
3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 3-3
3-I.D. HEAD OF HOUSEHOLD 3-4
3-I.E. SPOUSE, COHEAD, AND OTHER ADULT 3-4
3-I.F. DEPENDENT 3-5
3-I.G. FULL-TIME STUDENT 3-5
3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY 3-6
3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY 3-6
3-I.J. GUESTS 3-7
3-I.K. FOSTER CHILDREN AND FOSTER ADULTS 3-8
3-I.L. ABSENT FAMILY MEMBERS 3-9
3-I.M. LIVE-IN AIDE 3-11

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING 3-13
3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 3-15
3-II.C. SOCIAL SECURITY NUMBERS 3-17
3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION 3-18

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW 3-19
3-III.B. REQUIRED DENIAL OF ADMISSION 3-20
3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION 3-21
3-III.D. SCREENING 3-24
3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION 3-28
3-III.F. NOTICE OF ELIGIBILITY OR DENIAL 3-31
3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING 3-32

EXHIBITS

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES 3-35

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION 4-1

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW 4-2
4-I.B. APPLYING FOR ASSISTANCE 4-2
4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS 4-3
4-I.D. PLACEMENT ON THE WAITING LIST 4-4

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW 4-5
4-II.B. ORGANIZATION OF THE WAITING LIST 4-5
4-II.C. OPENING AND CLOSING THE WAITING LIST 4-6
4-II.D. FAMILY OUTREACH 4-8
4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES 4-9
4-II.F. UPDATING THE WAITING LIST 4-10

PART III: TENANT SELECTION

4-III.A. OVERVIEW 4-12
4-III.B. SELECTION METHOD 4-13
4-III.C. NOTIFICATION OF SELECTION 4-18
4-III.D. THE APPLICATION INTERVIEW 4-19
4-III.E. FINAL ELIGIBILITY DETERMINATION 4-21

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION 5-1

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW 5-1
5-I.B. DETERMINING UNIT SIZE 5-2
5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS 5-3

PART II: UNIT OFFERS

5-II.A. OVERVIEW 5-4
5-II.B. NUMBER OF OFFERS 5-4
5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL 5-5
5-II.D. REFUSAL OF UNIT OFFERS 5-5
5-II.E. ACCESSIBLE UNITS 5-7
5-II.F. DESIGNATED HOUSING 5-7

Chapter 6

INCOME AND RENT DETERMINATIONS

INTRODUCTION 6-1

PART I: ANNUAL INCOME

6-I.A. OVERVIEW 6-2
6-I.B. HOUSEHOLD COMPOSITION AND INCOME 6-4
6-I.C. ANTICIPATING ANNUAL INCOME 6-8
6-I.D. EARNED INCOME 6-10
6-I.E. EARNED INCOME DISALLOWANCE 6-15
6-I.F. BUSINESS INCOME 6-18
6-I.G. ASSETS 6-20
6-I.H. PERIODIC PAYMENTS 6-29
6-I.I. PAYMENTS IN LIEU OF EARNINGS 6-31
6-I.J. WELFARE ASSISTANCE 6-32
6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES 6-34
6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME 6-35

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION 6-37
6-II.B. DEPENDENT DEDUCTION 6-39
6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION 6-40
6-II.D. MEDICAL EXPENSES DEDUCTION 6-41
6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION 6-43
6-II.F. CHILD CARE EXPENSE DEDUCTION 6-46
6-II.G. PERMISSIVE DEDUCTIONS 6-50

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS 6-51
6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT 6-54
6-III.C. UTILITY ALLOWANCES 6-60
6-III.D. PRORATED RENT FOR MIXED FAMILIES 6-62
6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS 6-63

EXHIBITS

6-1: ANNUAL INCOME INCLUSIONS 6-67
6-2: ANNUAL INCOME EXCLUSIONS 6-69
6-3: TREATMENT OF FAMILY ASSETS 6-72
6-4: EARNED INCOME DISALLOWANCE 6-73
6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION 6-75

Chapter 7

VERIFICATION

INTRODUCTION 7-1

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION 7-2
7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS 7-3
7-I.C. UP-FRONT INCOME VERIFICATION (UIV) 7-4
7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION 7-6
7.I.E. SELF-CERTIFICATION 7-9

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY 7-10
7-II.B. SOCIAL SECURITY NUMBERS 7-11
7-II.C. DOCUMENTATION OF AGE 7-12
7-II.D. FAMILY RELATIONSHIPS 7-13
7-II.E. VERIFICATION OF STUDENT STATUS 7-14
7-II.F. DOCUMENTATION OF DISABILITY 7-15
7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 7-16
7-II.H. VERIFICATION OF PREFERENCE STATUS 7-17
7-II.I. VERIFICATION OF STATE LIFETIME SEX OFFENDER REGISTRATION……..7-17

PART III: VERIFYING INCOME AND ASSETS

7-III.A. EARNED INCOME 7-18
7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME 7-18
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS 7-20
7-III.D. ALIMONY OR CHILD SUPPORT 7-21
7-III.E. ASSETS AND INCOME FROM ASSETS 7-22
7-III.F. NET INCOME FROM RENTAL PROPERTY 7-22
7-III.G. RETIREMENT ACCOUNTS 7-22
7-III.H. INCOME FROM EXCLUDED SOURCES 7-23
7-III.I. ZERO ANNUAL INCOME STATUS 7-23

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS 7-24
7-IV.B. MEDICAL EXPENSE DEDUCTION 7-24
7-IV.C. DISABILITY ASSISTANCE EXPENSES 7-26
7-IV.D. CHILD CARE EXPENSES 7-28

EXHIBITS

17-1: Excerpt From HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)……...7-31
17-2: Summary of Documentation Requirements for Noncitizens 7-32

Chapter 8

LEASING AND INSPECTIONS

INTRODUCTION 8-1

PART I: LEASING

8-I.A. OVERVIEW 8-1
8-I.B. OCCUPANCY AND LEASE ORIENTATION 8-2
8-I.C. EXECUTION OF LEASE 8-3
8-I.D. MODIFICATIONS TO THE LEASE 8-3
8-I.E. SECURITY DEPOSITS 8-6
8-I.F. PAYMENTS UNDER THE LEASE 8-7

PART II: INSPECTIONS

8-II.A. OVERVIEW 8-10
8-II.B. TYPES OF INSPECTIONS 8-10
8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS 8-11
8-II.D. INSPECTION RESULTS 8-12

PART III: SPECIAL OCCUPANCY IN PUBLIC HOUSING UNITS

8-III.A. OVERVIEW 8-14
8-III.B.LEASING PUBLIC HOUSING UNITS TO POLICE OFFICERS 8-15

Chapter 9

REEXAMINATIONS

INTRODUCTION 9-1

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

9-I.A. OVERVIEW 9-3
9-I.B. SCHEDULING ANNUAL, BIENNIAL, AND TRIENNIAL REEXAMINATIONS ... 9-4
9-I.C. CONDUCTING REGULARLY SCHEDULED REEXAMINATIONS 9-6
9-I.D. REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED OR FLAT RENTS 9-9
9-I.E. EFFECTIVE DATES 9-10

PART II: INTERIM REEXAMINATIONS

9-II.A. OVERVIEW 9-11
9-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION 9-12
9-II.C. CHANGES AFFECTING INCOME OR EXPENSES 9-15
9-II.D. PROCESSING THE INTERIM REEXAMINATION 9-18

PART IV: RECALCULATING TENANT RENT

9-III.A. OVERVIEW 9-19
9-III.B. CHANGES IN UTILITY ALLOWANCES 9-20
9-III.C. NOTIFICATION OF NEW TENANT RENT 9-21
9-III.D. DISCREPANCIES 9-22

EXHIBITS

9-1. SUMMARY OF ALTERNATIVE RECERTIFICATION SCHEDULES 9-23

Chapter 10

ANIMALS

INTRODUCTION 10-1

PART I: ASSISTANCE ANIMALS

10-I.A. OVERVIEW 10-2
10-I.B. SERVICE ANIMALS 10-3
10-I.C ASSISTANCE ANIMALS 10-4
10-I.D. APPROVAL OF ASSISANCE ANIMALS 10-4
10-I.E. CARE AND HANDLING 10-5

PART II: PET POLICIES FOR ALL DEVELOPMENTS

10-II.A. OVERVIEW 10-6
10-II.B. MANAGEMENT APPROVAL OF PETS 10-7
10-II.C. STANDARDS FOR PETS 10-9
10-II.D. PET/OWNERSHIP RULES 10-11

PART III: PET DEPOSITS AND FEES IN

10-III.A. OVERVIEW 10-15
10-III.B. PET DEPOSITS 10-15
10-III.C. OTHER CHARGES 10-16

Chapter 11

COMMUNITY SERVICE

INTRODUCTION 11-1

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW 11-2
11-I.B. REQUIREMENTS 11-3
11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE 11-7
11-I.D. DOCUMENTATION AND VERIFICATION 11-9
11-I.E. NONCOMPLIANCE 11-11

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW 11-13

EXHIBITS

11-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE 11-16

Chapter 12

TRANSFER POLICY

INTRODUCTION 12-1

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW 12-2
12-I.B. CONDITIONS OF UNIT EMERGENCIES 12-3
12-I.C. EMERGENCY RELOCATION PROCEDURES 12-4
12-I.D. COSTS OF TRANSFER 12-5
12-I.E. OHA HIGH PRIORITY INTER-PROGRAM AND INTER-PORTFOLIO TRANSFER POLICY 12-5

PART II: OHA REQUIRED TRANSFERS

12-II.A. OVERVIEW 12-7
12-II.B. TYPES OF OHA REQUIRED TRANSFERS 12-8
12-II.C. OCCUPANCY STANDARDS TRANSFERS 12-9
12-II.D. DEMOLITION, DISPOSITION, REVITALIZATION, OR REHABILITATION TRANSFERS 12-9
12-II.E. ADVERSE ACTION 12-10

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW 12-12
12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS 12-13
12-III.C. ELIGIBILITY FOR TRANSFER 12-15
12-III.D. SECURITY DEPOSITS 12-16
12-III.E. COST OF TRANSFERS 12-16
12-III.F. HANDLING OF REQUESTS 12-16

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW 12-17
12-IV.B. TRANSFER LIST 12-17
12-IV.C. TRANSFER OFFER POLICY 12-18
12-IV.D. GOOD CAUSE FOR UNIT REFUSAL 12-18
12-IV.E. DECONCENTRATION 12-20
12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS 12-20

Chapter 13

LEASE TERMINATIONS

INTRODUCTION 13-1

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE 13-2

PART II: TERMINATION BY OHA – MANDATORY

13-II.A. OVERVIEW 13-3
13-II.B. FAILURE TO PROVIDE CONSENT 13-3
13-II.C. FAILURE TO DOCUMENT CITIZENSHIP 13-3
13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS. 13-4
13-II.E. FAILURE TO ACCEPT OHA'S OFFER OF A LEASE REVISION 13-4
13-II.F. METHAMPHETAMINE CONVICTION 13-5
13-II.G. LIFETIME REGISTERED SEX OFFENDERS 13-5
13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS 13-5
13-II.I. DEATH OF A SOLE FAMILY MEMBER 13-5

PART III: TERMINATION BY OHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW 13-6
13-III.B. MANDATORY LEASE PROVISIONS 13-7
13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION 13-16
13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY 13-19
13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY 13-20
13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING 13-23

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW 13-27
13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS 13-27
13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY 13-28
13-IV.D. LEASE TERMINATION NOTICE 13-29
13-IV.E. EVICTION 13-31
13-IV.F. NOTIFICATION TO POST OFFICE 13-32
13-IV.G. RECORD KEEPING 13-32

APPENDIX

13.1 OHA FOR –CAUSE EVICTION GUIDELINES 13-33

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION 14-1

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW 14-2
14-I.B. INFORMAL HEARING PROCESS 14-3

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS 14-7

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS 14-12
14-III.B. DEFINITIONS 14-13
14-III.C. APPLICABILITY 14-14
14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE 14-15
14.III.E. PROCEDURES TO OBTAIN A HEARING 14-16
14.III.F. SELECTION OF HEARING OFFICER/PANEL 14-17
14.III.G. PROCEDURES GOVERNING THE HEARING 14-18
14.III.H. DECISION OF THE HEARING OFFICER/PANEL 14-22

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION 15-1

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15.I.A. PREVENTING ERRORS AND PROGRAM ABUSE 15-2
15.I.B. DETECTING ERRORS AND PROGRAM ABUSE 15-3
15.I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE 15-4

PART II: CORRECTIVE MEASURES AND PENALTIES

15.II.A. UNDER- OR OVERPAY7ENT 15-6
15.II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE 15-7
15.II.C. OHA-CAUSED ERRORS OR PROGRAM ABUSE 15-9
15.II.D. CRIMINAL PROSECUTION 15-11
15.II.E. FRAUD AND PROGRAM ABUSE RECOVERIES 15-12

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION 16-1

PART I: SETTING UTILITY ALLOWANCES

16.I.A. OVERVIEW 16-2
16.I.B UTILITY ALLOWANCES 16-3
16.I.C. SURCHARGES FOR OHA-FURNISHED UTILITIES 16-4
16.I.D. NOTICE REQUIREMENTS 16-5
16.I.E. REASONABLE ACCOMMODATION 16-6

PART II: ESTABLISHING FLAT RENTS

16.II.A. OVERVIEW 16-7
16.II.B. FLAT RENTS 16-7

PART III: FAMILY DEBTS TO OHA

16.III.A. OVERVIEW 16-10
16.III.B. REPAYMENT POLICY 16-11

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (OHA)

16.IV.A. OVERVIEW 16-14
16.IV.B. OHA INDICATORS 16-15
16.IV.C. OHA SCORING 16-17

PART V: RECORD KEEPING

16.V.A. OVERVIEW 16-18
16.V.B. RECORD RETENTION 16-19
16.V.C. RECORDS MANAGEMENT 16-20

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16.VI.A. REPORTING REQUIREMENTS 16-22

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16.VII.A. OVERVIEW 16-23
16.VII.B. DEFINITIONS 16-24
16.VII.C. NOTIFICATION 16-25
16-VII.D. DOCUMENTATION [24 CFR 5.2007] 16-27
16-VII.E. CONFIDENTIALITY 16-29

EXHIBITS

PART VIII: CONFLICT OF INTEREST POLICY

16-VIII.A. OVERVIEW 16-32
16-VIII.B. EMPLOYEES WHO ARE ALSO AUTHORITY CLIENTS 16-33
16-VIII.C. DISCLOSURE 16-34
16-VIII.D. DISCIPLINARY PROCEDURES 16-35
16-VIII.E. WAIVER CONFLICT OF INTEREST PROVISIONS 16-36
16-VIII.F. GIFT POLICY 16-37

Glossary

INTRODUCTION

ABOUT THE ACOP

Oakland Housing Authority ("OHA") policy must be consistent with the public housing lease and any policy documents provided to tenants, and the lease and policy documents must comply with federal, state and local law.

The Admissions and Continued Occupancy Policy ("ACOP") contains policies that reflect the terms of OHA's public housing lease. Policies on a particular topic may be included in the public housing lease, or may be a separate document incorporated in the lease by reference, such as a pet or transfer policy.

REFERENCES CITED IN THE ACOP

Authority for OHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by U. S. Department of Housing and Urban Development ("HUD"). California law also directs OHA policy. State and local law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, property management industry practice guides OHA policy. Finally, the public housing lease will affect OHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of OHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides non-mandatory guidance to housing authorities through HUD-published guidebooks. Expired HUD Notices and handbooks also provide guidance for OHA policy. Following HUD guidance is optional, as long as OHA policies comply with federal law, federal regulations, and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, OHA reliance on HUD guidance provides OHA with a "safe harbor."

Content contained on the HUD website provides further clarification of HUD policies. For example, FAQs (Frequently Asked Questions) on the HUD website provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, OHA must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, OHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support OHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001
HUD 50058 IB	HUD 50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004

Resources and where to find them

Following is a list of resources helpful to OHA or referenced in the model ACOP, and the online location of each.

Document and Location
Code of Federal Regulations http://www.ecfr.gov
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm

Enterprise Income Verification (EIV) System OHA Security Procedures, Version 1.2, issued January 2005 http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguideOHA.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm
Federal Register http://www.gpo.gov/fdsys/search/getfrtoc.action
General Income and Rent Determination FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001. www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is Available http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/guideprojincome.doc
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007http://www.hud.gov/offices/fheo/promotingfh/FederalRegistepublishedguidance.pdf
Notice PIH 2007-27 (HA), Disallowed Costs and Sanctions Resulting from On-Site Monitoring Reviews
Notice PIH 2012-10, Verification of Social Security Numbers (SSNs) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report http://portal.hud.gov/huddoc/pih2012-10.pdf
Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System http://www.hud.gov/offices/pih/publications/notices/10/pih2010-19.pdf
Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf
OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010
Public Housing Occupancy Guidebook, June 2003 http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions http://www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm

VAWA Reauthorization Act of 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-08-06/pdf/2013-18920.pdf
Verification FAQs http://www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm
Verification Guidance, March 2004 (attachment to Notice PIH 2004-1) http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf

The HUD website is http://www.hud.gov/index.html.

Guidebooks, handbooks and other HUD-published and federal resources may be found at the HUD Clips website:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips.

APPENDICES

Lease Packet
• Lease and the following attachments:
• A. Grievance Procedures
• B. House Rules
• C. Mold Notification
• D. Lead Based Paint Disclosure
• E. Pest Control
• F. Pet Agreement
• G. Schedule of Maintenance Fees
• H. Parking policy
• I. Drug Free Environment
• J. Community Service Eligibility Form
• K. Flat Rent Notification and Election Forms
• L. Accessible Unit Notification
• M. Unlawful activities
• N. Parking Policy and Fees
• O. VAWA

CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

OHA receives its operating subsidy for the public housing program from HUD, and OHA is not a federal department or agency. The Oakland Housing Authority ("OHA") is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. OHA enters into an Annual Contributions Contract with HUD to administer the public housing program. OHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about OHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

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

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

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

PART I: THE PUBLIC HOUSING AGENCY (OHA)

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF OHA

Public housing is funded by the federal government and administered by the Oakland Housing Authority for the jurisdiction of the City of Oakland, California.

OHA is governed by a Board of Commissioners. This document will refer to the "Board of Commissioners" as "The Board". Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board establishes policies under which OHA conducts business, and ensures that those policies are followed by OHA staff. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of OHA is taken through written resolutions, adopted by The Board, and entered into the official records of OHA.

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

MTW Demonstration Program

OHA policy may also be affected by OHA's participation in Moving to Work ("MTW"), a HUD demonstration program that allows public housing authorities to design and test new policies and procedures at the local level. An MTW Agreement was executed on March 31, 2004, which defined the areas and parameters of OHA's flexibility under MTW, allowing OHA to begin to explore innovative methods of delivering housing and supportive services to low-income residents. Changes to the ACOP developed in the MTW program must be approved by The Board and submitted to HUD.

1-I.C. OHA MISSION

OHA Policy

OHA's mission is to assure the availability of quality housing for low-income persons and to promote the civic involvement and economic self-sufficiency of residents and to further the expansion of affordable housing within Oakland.

1-I.D. OHA'S COMMITMENT TO ETHICS AND SERVICE

OHA is committed to providing excellent service to all public housing applicants, residents and the public. In order to provide superior service, OHA aspires to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs.

- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing OHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of OHA's support systems and commitment to our employees and their development.

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

PART II: THE PUBLIC HOUSING PROGRAM

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

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

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This Act also created HUD.

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act ("QHWRA") – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed OHA more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for OHA to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

Oakland Housing Authority has the additional advantage of participating in HUD's demonstration program, Moving to Work ("MTW"). MTW was authorized under the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat 1321) to offer OHA the opportunity to develop and test innovative, locally-designed housing and self-sufficiency strategies for low-income families. It does so by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher rules and permitting OHA to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source. The purpose of the MTW program is to give OHA and HUD the flexibility to find new ways to: reduce cost and achieve greater cost effectiveness for the Authority; promote self-sufficiency among tenants and clients; and increase housing choices for low-income families.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with OHA to administer programs in accordance with HUD regulations and provides an operating subsidy to OHA. OHA must create written policies that are consistent with HUD regulations. Among these policies is OHA's ACOP. The ACOP must be approved by the Board of Commissioners of OHA.

The job of OHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. OHA screens applicants for public housing and, if they are found eligible and accepted, OHA offers the applicant a unit. If the applicant accepts the offer, OHA will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with OHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since OHA is in partnership with mixed-financed developments and manages public housing development, OHA's role is that of owner and landlord. OHA and its partners must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and OHA policy.

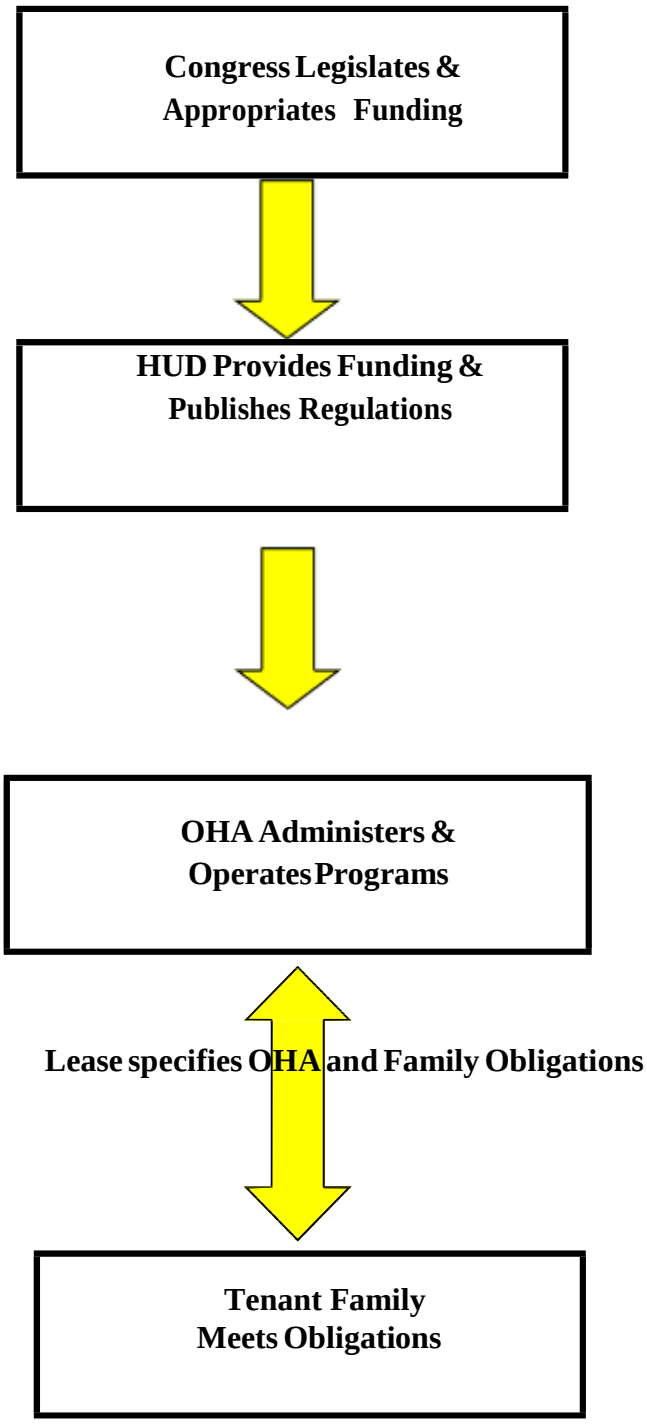
1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, OHA enters into a contractual relationship with HUD through the Annual Contribution Contract ("ACC"). OHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, OHA, and the tenant – must play their important parts.

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

The Public Housing Relationships



What does HUD do?

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

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

What does OHA do?

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

- Establish local policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain site-based waiting lists and select families for admission
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Use adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, OHA's ACOP, and other applicable federal, state and local laws

What does the Tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has responsibilities included but not limited to:

- Comply with the terms of the lease and house rules
- Provide OHA with complete and accurate information, determined by OHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by OHA
- Allow OHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any damages caused by the family, guest or person(s) under the control of the family
- Not engage in drug-related or violent criminal activity
- Notify OHA before moving or terminating the lease
- Use the assisted unit only for residence and as the sole residence of the family; not sublet the unit or assign the lease
- Promptly notify OHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

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

The ACOP is OHA's written statement of policies used to carry out the housing program in accordance with federal laws and regulations, HUD requirements, and OHA's MTW agreement with HUD dated March 31, 2004. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in OHA's Agency Plan.

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

1-III.B. CONTENTS OF THE POLICY

HUD regulations contain requirements of inclusion in OHA's written policy. This ACOP covers OHA policies on these subjects:

- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- The organization of the site-based waiting lists and how families are selected and offered available units, including any OHA admission preferences, procedures for removing applicant names from the site-based waiting lists, and procedures for closing and reopening OHA's site-based waiting lists (Chapter 4)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Procedures for verifying the information the family has provided (Chapter 7)
- Lease Requirements (Chapter 8)
- Interim redeterminations of family income and composition (Chapter 9)
- Polices and rules about safety and ownership of animals in public housing (Chapter 10)
- Policies regarding community service requirements (Chapter 11)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to OHA of amounts the family owes OHA (Chapter 15 and 16)

New Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of consistency. The ACOP supports that goal by clearly defining OHA policy for OHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring ("RIM") program has been consistent in how OHA conduct their business and in how HUD monitors OHA activities. HUD has made it clear that consistency in OHA conduct is important. Staff has an obligation to be familiar with and follow the ACOP to maintain consistency in applying OHA policy. Referring to and following the ACOP is essential to maintaining consistency in applying OHA policy. HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects OHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies OHA has adopted. OHA's ACOP is the document that contains and clarifies OHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy. HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of OHA policy, even though it is not mandatory, provides a OHA with a "safe harbor." If a OHA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different from that suggested by HUD, but OHA should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

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

OHA Policy

OHA will review and update the ACOP at least once a year, and more often if needed, to reflect changes in regulations, OHA operations, or when needed to ensure staff consistency in operation.

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY INTRODUCTION

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

This chapter describes HUD regulations and OHA policies related to these topics in three parts:

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

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

Part III: Prohibition of Discrimination against Limited English Proficiency Persons. This part details the obligations of OHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency ("LEP"). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register* ("Notice of Guidance").

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

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

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

2-I.B. NONDISCRIMINATION

OHA fully complies with all federal, state and local nondiscrimination laws; the Americans with Disabilities Act; and the HUD regulations governing Fair Housing and Equal Opportunity. OHA does not discriminate on the basis of race, color, religion, sex, gender identity, gender expression, marital status, sexual orientation, national origin, ancestry, familial status, source of income, disability, medical condition, age, occupational status, genetic information, association with a member of a protected class, engagement in protected activity, sex-pregnancy or any other unlawful basis.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. [FR Notice 02/03/12]

OHA Policy

OHA will not use any of the factors above to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity of OHA. OHA will take appropriate measures to ensure that the individual with disabilities shall have equal access to available services, programs, and activities offered. Such appropriate measures include, but are not limited to:

- provision of telecommunication devices for the deaf
- provision of sign language interpreters, as requested
- provision of readers and amanuenses, as requested

- use of barrier-free meeting places
- provision of a discrimination complaint procedure

Providing Information to Families

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

Discrimination Complaints

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

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

Upon receipt of a housing discrimination complaint, OHA is required to:

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

OHA Policy

Accordingly, OHA will assist any family that believes they have suffered illegal discrimination by providing copies of the appropriate housing discrimination forms. OHA will also assist families in completing the forms, if requested. The address of the nearest HUD Office of Fair Housing and Equal Opportunity will also be provided as well as the California Department of Fair Housing and Equal Opportunity (FHEO)**.**

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

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

OHA Policy

All applicants and resident families will be asked on the intake application, reexamination documents, and notices of adverse action by OHA if they require any reasonable accommodation by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully use our programs and services, please contact OHA 504/ADA Coordinator." A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

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

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

2-II.C. REQUEST FOR AN ACCOMMODATION

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

OHA Policy

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

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

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

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, OHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to OHA's programs and services.

If a person's disability is obvious or otherwise known to OHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.
- OHA must request only information that is necessary to evaluate the disability-related need for the accommodation. OHA may not inquire about the nature or extent of any disability.
- OHA will request the verifying entity to state whether the accommodation will be needed on a permanent or temporary basis.
- If a reasonable accommodation is approved on a temporary basis, OHA will require an annual recertification to verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability continue to require the requested accommodation. If a reasonable accommodation is approved on a permanent basis, an annual recertification of the disability will not be required. A required annual recertification of the disability will be conducted in conjunction with the regularly scheduled annual reexamination of income and family composition in accordance with the policies set in Chapter 9.
- Medical records will not be accepted or retained in the participant's file.

- If OHA does receive documentation from a knowledgeable professional that contains information regarding an individual's specific diagnosis, treatment, the nature or severity of the disability, OHA will destroy the documentation. In place of the information, OHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26 (HA)].

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

OHA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on OHA, or fundamentally alter the nature of OHA's operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors, such as the overall size of OHA's program with respect to number of employees, type of facilities and size of budget, type of operations including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

OHA Policy

After a request for an accommodation is presented, OHA will respond, in writing, within 15 business days.

If OHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal OHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

When units offered to accommodate a reasonable accommodation request have been rejected, OHA may request an "interactive meeting" to allow the resident to state the reasons for rejecting the units offered and explain the nexus between their disability and the need for an alternative accommodation. OHA will document the outcome of the meeting and provide a summary in writing within 15 business days.

If OHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, OHA will notify the family, in writing, of its determination within 15 business days from the date of the most recent discussion or communication with the family**.** The notice will inform the family of the right to appeal OHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

Request for an extra bedroom for medical equipment required by a household member with disability should be made in writing. OHA will obtain third-party verification that the extra bedroom is medically necessary. OHA personnel will verify that all living and sleeping rooms in the current unit are insufficient to meet such need before OHA shall consider increasing the bedroom size or subsidy of the family. Note that supplies are not considered medical equipment. The extra bedroom cannot be used as storage. The actual equipment in the extra bedroom should be verified by OHA during routinely scheduled inspections of the unit

Request for an extra bedroom due to a family member's disability should also be made in writing. Third-party verification will be required in order for OHA to determine if the extra bedroom is a medical necessity.

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

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

At the initial point of contact with each applicant, OHA shall inform all applicants of alternative forms of communication that can be used other than printed language.

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

To meet the needs of persons with vision impairment, large-print and one-on-one assistance will be provided upon request. When visual aids are used in public meetings or presentations, or in meetings with OHA staff, one-on-one assistance will be provided upon request.

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

2-II.G. PHYSICAL ACCESSIBILITY

OHA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
    - Section 504 of the Rehabilitation Act of 1973
    - The Americans with Disabilities Act of 1990
    - The Architectural Barriers Act of 1968
    - The Fair Housing Act of 1988

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

- This policy describes the key policies that govern OHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.
- OHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of OHA facilities must conform to the Uniform Federal Accessibility Standards ("UFAS"). Newly-constructed facilities must be designed to be readily accessible to, and usable by, persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with OHA's grievance process [24 CFR 966.4(l)(3)(ii)]. When reviewing reasonable accommodation requests, OHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to OHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, OHA must make the accommodation [24 CFR 966.7].

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

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

2-III.A. OVERVIEW

On December 19, 2003 HUD published guidance designed to assist housing authorities to comply with Title VI of the Civil Rights Act of 1964 ("Title VI") and implementing regulations. Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

While most individuals living in the United States read, write, speak and understand English, there are many for whom English is not their primary language. If these individuals have a limited ability to read, write, speak or understand English, they are considered limited English proficient ("LEP"). Language for LEP Persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information relevant to the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

Recipients of federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons and have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government programs, services, and activities.

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this ACOP, LEP persons are all public housing applicants and tenants or their authorized representative (which could be their parents or other family members). The exception to this will be during times when any of the public housing wait lists are open or for outreach material that explain how to access the program. In these instances, LEP persons will include all potential applicants. In all cases, OHA will determine language services provided LEP populations based on data for the City of Oakland.

In order to determine the level of access needed by LEP persons who speak a particular language, OHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and

(4) the resources available to OHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on OHA.

2-III.B. ORAL INTERPRETATION

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

OHA Policy

OHA will utilize a language line for telephone interpreter services.

OHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where feasible and available and according to its language assistance plan (LAP), OHA will designate certified bilingual staff to act as interpreters and translators to assist LEP clients.

Bilingual staff employed by OHA who will provide interpretation must either be certified or pass a required test, which will be facilitated by OHA's Human Resources Department.

2-III.C. WRITTEN TRANSLATION

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

OHA Policy

In order to comply with written translation obligations, OHA will only translate those documents that are necessary to provide essential services. The documents will be revised as business needs change and OHA will accept recommendations from the City of Oakland concerning the need to translate certain documents. Approved vendors will be utilized for this service. Translation of other documents, if needed, can be provided orally.

2-III.D. IMPLEMENTATION PLAN

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

OHA Policy

OHA will develop a written language assistance plan (LAP), the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LAP annually as part of the MTW Annual Plan. The LAP will address the identified needs of the LEP populations served, or potentially served, by its programs. In compliance with federal guidelines, OHA shall make reasonable efforts to provide free language assistance for its LEP clients in its public housing program so as to ensure that these persons have meaningful access to OHA programs and activities.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

CHAPTER 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

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

This chapter contains three parts:

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

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

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

The program rules discussed within this plan are primarily those required by HUD. OHA is authorized under the Moving to Work (MTW) Demonstration program to develop and adopt reasonable policies and processes to explore and test innovative methods of delivering public housing assistance and supportive services to low-income families in Oakland. MTW policies and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard public housing rules and regulations apply.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

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

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

Family (Notice PIH 2014-20, 24 DFR 5.403)

To be eligible for admission, an applicant must qualify as a family.

The term *family,* as defined by HUD, includes but is not limited to the following, regardless to actual or perceived sexual orientation, gender identity, or marital status:

- A single person who may be elderly; disabled, near elderly, or any other single person
- A group of persons residing together that includes but is not limited to:
- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family),
- An elderly family,
- A near-elderly family,
- A disabled family,
- A displaced family, or
- The remaining member of a tenant family

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

OHA Policy

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

Except under the following conditions, OHA 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 or stalking, OHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault and stalking, see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family , OHA is bound by the court's determination of which family members continue to receive assistance. There can only be one subsidy. OHA will consider a 50-50 decision to be a non-decision.

OHA Policy

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

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

If a court determines the disposition of property between members of an applicant or resident family as part of a divorce or separation decree, OHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, OHA will determine which family retains their placement on the site-based waiting list(s) or will continue in occupancy, taking into consideration, the following factors:

(1) The interest of any minor children, including custody arrangements;

(2) The interest of any ill, elderly, or disabled family members;

(3) The interest of any family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP;

(4) Any possible risks to family members as a result of criminal activity; and

(5) The recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

OHA Policy

OHA will deny the request of a Head, Co-head, or Spouse to transfer assistance to remaining family members, when the Head, Co-head, or Spouse requests program termination or no longer requires assistance. Notice will be sent to the family within 10 days of the decision to propose termination of assistance.

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

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

The family may designate any qualified family member as the head of household. A qualified family member means a person who meets all eligibility program requirements.

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

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

OHA Policy

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

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

Minors who are emancipated under state law may be designated as a co-head.

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

3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

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

When more than one applicant or assisted family (regardless of program) 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. The dependents can only be claimed by one family member.

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

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

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

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

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

Elderly Persons

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62 [24 CFR 945.105].

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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

As discussed in Chapter 2, OHA must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. (24 CFR Sec. 5.403)

Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

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

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near OHA premises [24 CFR 966.4(f)].

OHA Policy

A resident family must notify OHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 45cumulative calendar days during any 12-month period.

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

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, who are not included as family members because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

A foster child is a child who is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

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

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, court order and actual or threatened domestic violence, dating violence, sexual assault or stalking.

Definitions of Temporarily and Permanently Absent

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

Absent Students

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

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

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

If a child has been placed in foster care, OHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absences Due to Military Duty

A family member is temporarily absent from the unit if the family can return to the unit within 30 days of the conclusion of active duty services if not absent from the unit for more than 180 days. The remaining family members can remain in the unit by paying the required rent. If the length of service extends beyond 180 days, OHA will waive the 180 day limit subject to verification of the absence due to active duty service.

If a family member is activated by the Federal Government's activation of Reserve or National Guard personnel and as a result the family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in a unit, the presence of the temporary guardian must be approved by the landlord and the income received by the temporary guardian will not be counted in determining family income. If the temporary guardian is determined to be ineligible due to a criminal background, the family will be given 30 days to find a replacement temporary guardian.

Absent Head, Spouse, or Co-head

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

Individuals Confined for Medical Reasons

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

If there is a question about the status of a family member, OHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent up to 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

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

Absence Due to Actual or Threatened Domestic Violence, Dating Violence, Sexual Assault or Stalking

Prior to determining that a family member or a family has abandoned the unit, OHA shall take into account the role of reported domestic violence, dating violence, sexual assault or stalking played in the absence.

3-I.M. LIVE-IN AIDE

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

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

OHA Policy

A relative may be approved as a live-in aide.

A live-in aide should:

- be capable of and qualified to provide the needed care;
- NOT had been part of the household while the family was receiving program assistance;
- maintain separate finances from the participant; and
- there is no other reason for the aide to reside in the unit other than to provide care for the person with disability.

If a family member requested to become a live-in aide and OHA has approved the request, the member loses their right to become a future household member, such determination is non-revocable. A relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

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

A live-in aide would use the assisted unit as their primary residence, that is, one aide for around the clock care. Occasional, intermittent, multiple or rotating care-givers typically do not reside in the unit and would not qualify as live-in aides; therefore, an additional bedroom will not be approved for a live-in aide under these circumstances. [[Notice PIH-2009-22]

OHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

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

The person has a history of drug-related criminal activity or violent criminal activity; or The person currently owes rent or other amounts to OHA or to another OHA in connection with Section 8 or public housing assistance under the 1937 Act.

OHA will initially respond in writing to all requests for a live-in aide within **15** business days of receiving a request for a live-in aide.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 960.201]

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

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

At least 40 percent of the families admitted to OHA's public housing program from OHA's site-based waiting lists during OHA's fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement.

If admissions of extremely low-income families to OHA's housing choice voucher program during OHA's fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against OHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing total waiting lists admissions during OHA's fiscal year
- Ten percent of waiting list admission to OHA's housing choice voucher program during OHA's fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

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

OHA Policy

Under MTW Authority, OHA is authorized to determine qualifications for participation in the rental assistance program that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations, as long as the requirements that: i) at least 75 percent of those assisted under the demonstrations are "very low-income" as defined in section 3(b)(2) of the 1937 Act, ii) substantially the same number of low-income persons are assisted under the demonstrations as would be without the MTW authorizations contained herein, and iii) a comparable mix of families are assisted under the Agreement as would have been otherwise in Section I.C. of the MTW Agreements are met. *This authorization waives certain provisions of Sections 16(b) and 8(o)(4) of the 1937 Act and 24 CFR 5.603, 5.609, 5.611, 5.628, and 982.201 as necessary to implement the Agency's Annual MTW Plan*

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

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

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

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit a signed 214 declaration form that claims their status. However, HUD regulations permit OHA to request additional documentation of their status, such as a passport.

Eligible Non-citizens

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

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

.

Ineligible Non-citizens

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

Providing housing assistance to non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany, or follow to join, the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

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

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

OHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.

When OHA determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

Grievance procedures are contained in Chapter 14.

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

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

If an individual qualifies for a time extension for the submission of required documents, OHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

OHA will verify the status of applicants at the time other eligibility factors are determined.

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

All family members must provide documentation of a valid Social Security Number (SSN). Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is over the age of 18, that person must provide SSN documentation as a part of the eligibility determination and prior to being added to the lease.

Note: The requirements above do not apply to noncitizens who do not contend eligible immigration status.

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

HUD permits an exception if a child under the age of 6 years is added to the applicant household within the 6-month period prior to the household's date of admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 calendar days from the date of admission to the program.

HUD further regulates that OHA must grant an extension of one additional 90-day period if OHA determines that, in OHA's discretion, the applicant's failure to meet the first timeline was due to circumstances that could not reasonably be foreseen and were outside the control of the applicant. If the applicant family fails to provide the required documentation within required time period, OHA must deny eligibility of the applicant family

OHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, or certification requirements contained in 24 CFR 5.216.

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

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

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

OHA Policy (pending HUD approval)

OHA may require each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign the HUD approved OHA Authorization Release Form/Privacy Act Notice form in lieu of the form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits OHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. OHA's authority in this area is limited by the Violence against Women Reauthorized Act of 2016 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking

This part covers the following topics:

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

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

OHA is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if OHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, and/or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or neighbors.

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

OHA Policy

OHA will deny admission in the following cases:

- If any member of the household or any otherwise eligible family who has been evicted from federally-assisted housing in the last 5 years for drug-related criminal activity unless OHA determines:
- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by OHA, or
- The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
- OHA determines that any household member is currently engaged in the illegal use of drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recent enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)]. OHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  In determining reasonable cause, OHA will consider all credible evidence, including but not limited to, conduct underlying an arrest, any record of convictions, or evictions of household members related to the use, sales, possession or abuse of illegal drugs or the abuse of alcohol. While OHA not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

- If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing, the family will be denied admission.
- If any household member is subject to a lifetime registration requirement under a state sex offender registration program, the family will be denied admission.

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

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

Criminal Activity [24 CFR 960.203 (b) and (c), Notice PIH 2015-19]

OHA is responsible for screening family behavior and suitability for tenancy. In doing so, OHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. OHA's adverse housing decisions based upon criminal activity must be supported by sufficient evidence that the individual engaged in such activity.

OHA Policy

If any household member is currently engaged in, or has engaged in, any of the following criminal activities within the past five years, the family will be denied admission:

- *Drug-related criminal activity*, defined by HUD as 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 [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as 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 [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or peaceful enjoyment of the premises by other residents. [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of OHA staff, contractors, subcontractors, or agents.
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, release from custody, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. An arrest record also can trigger an inquiry into whether there is sufficient evidence for OHA to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination.

In making its decision to deny assistance, OHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OHA may, on a case-by-case basis, decide not to deny assistance.

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

HUD authorizes OHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F OHA may need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

OHA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward OHA personnel

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

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

- Owes rent or other amounts to this or any other OHA or owner in connection with any assisted housing program

OHA Policy

If determined during the verification process that any member of the applicant's family owes a debt to any OHA, the applicant will be given 30 days to repay the debt in full unless OHA to which the debt is owed, authorizes a longer repayment period. OHA may continue verification of an applicant's eligibility, but will not allow the applicant to lease an available unit until the debt has been repaid in full and the applicant determined to be eligible for leasing. The applicant's assistance will be denied if the applicant

fails to repay the debt in full before the 30-day period expires (or an extended period up to 90 days authorized by the debt owed OHA and OHA),

In making its decision to deny admission, OHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OHA may, on a case-by-case basis, decide not to deny admission.

OHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

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

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

OHA Policy

OHA will perform criminal background checks for all adult household members. Information may be obtained from any combination of qualified sources or their successors in interest including, but not limited to the California Law Enforcement Telecommunications System (CLETS) or the National Crime Information Center (NCIC).

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

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

If OHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, OHA must notify the household of the proposed action and must provide the subject of the record a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission

[24 CFR 5.903(f) and 5.905(d)].

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

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

OHA Policy

OHA will consider the family's history with respect to the following factors:

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

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

OHA have a variety of resources available to them for determination of the suitability of applicants. Generally, OHA should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

OHA Policy

In order to determine the suitability of applicants, OHA will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

OHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether OHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. OHA and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history, OHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide OHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

If previous landlords or the utility company do not respond to requests from OHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development.

OHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. While OHA not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

Screening Employee Applicants/Clients

An employee of OHA who is a client or who is related to a client has a responsibility to avoid any conflict of interest that might lead to unequal treatment. Therefore, the following standards are to be employed in all such circumstances:

Neither employees, nor their staff, if they are a manager or supervisor, shall handle matters related to their own cases or to the cases(s) of member(s) of their family.

Employees shall be responsible for reporting to the Director of Human Resources and the Deputy Executive Director or their designee any potential or actual conflict of interest. If the employee is unsure whether or not a conflict of interest exists, the employee shall refer the matter to the Director of Human Resources and the Deputy Executive Director for a determination.

It shall be the responsibility of the Deputy Executive Director or their designee to ensure that any actions or decisions taken within the his department affecting any employee's participant status or the participant status of an employee's relative are in accordance with all applicable policies and procedures. OHA shall ensure that the employee or employee's relative shall neither suffer

any loss of benefits nor receive any gain of benefits as a result, direct or indirect, of their employment at OHA or their relationship to an OHA employee. As such:

- Each initial determination of eligibility and each selection to a program of an OHA employee or a relative of an OHA employee shall be forwarded to the Deputy Executive Director or his designee for review and final approval. A certification stating that all determinations and actions taken have been reviewed pursuant to applicable policies and procedures.

- Any time action is taken or a decision is made which affects the applicant or participant status of an OHA employee or a relative of an OHA employee in any way, all OHA paperwork must be received and signed by the appropriate director before the action or decision becomes effective.

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

Evidence

OHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d) and Notice PIH 2015-19]

HUD authorizes OHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

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

OHA Policy

OHA may consider the following circumstances when making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act;
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault or stalking;
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future;
- While OHA not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.
- As part of its investigation, OHA may obtain the police report associated

with the arrest and consider the reported circumstances of the arrest.

- OHA may also consider any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs; and
- 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.

OHA 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.

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

HUD permits OHA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

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

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

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

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If OHA determines that an applicant family is not eligible for the program for any reason, the applicant must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the applicant's right to an informal review, (3) the process for obtaining the informal review [24 CFR 982.554 (a)] and (4) the protections discussed in section 3-III.G. See Chapter 14 for informal review policies.

If OHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a proposed denial, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The subject of the record will be given the opportunity to dispute the accuracy and relevance of the information provided during the informal review process in accordance with program requirements [24 CFR 982.553(d)] before OHA can issue the notice of final denial of the application. OHA notification of proposed denial will include a reminder of the family's right to bring counsel and referral information for local legal services organizations.

OHA Policy

If, an applicant appears to be ineligible based on general suitability, a criminal record, or sex offender registration information,; OHA will notify the applicant in writing of the proposed denial and provide the applicant with a copy of the criminal record when the denial is due to failed criminal screening. The applicant will be given 10 business days to dispute the accuracy and relevance of the information by requesting an informal review. If the applicant does not contact OHA to request an informal review within 10 business days, OHA will proceed with issuing the notice of final denial of admission.

OHA notification of proposed denial will include a reminder of the family's right to bring counsel and to referral information for local legal services organizations.

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

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING [24 CFR Part 5, Subpart L]

The Violence Against Women Act of 2005 and 2013 (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of actual or threatened domestic violence, dating violence, sexual assault or stalking. [24 CFR 5.2005].

Definitions of key terms used in VAWA are provided in Section 16-VII of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification and Victim Documentation

VAWA 2013 expanded notification requirements to include the obligation for OHA to provide applicants who are denied assistance with a notice of VAWA rights and the form HUD-50066 at the time the applicant is denied.

OHA Policy

OHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history that would warrant denial under OHA's policies. Therefore, if OHA makes a determination to deny admission to an applicant family, OHA will include in its notice of denial a statement of the protection against denial provided by VAWA, a notice of VAWA rights and a copy of the form HUD-50066. OHA will offer the applicant the opportunity to provide a statement or documentation affirming that domestic violence, dating violence, sexual assault, or stalking played a role in causing the basis for ineligibility. In accordance with OHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

An individual may satisfy the documentation request in any of the following ways:

1. Completing a HUD-approved certification form (such as Form HUD-50066 or HUD-91066) or signed statement verifying that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of actual or threatened abuse. OHA will work with the victim to ensure that delivery of the certification form does not endanger the victim's safety. OR

2. Providing the requesting owner, manager, or OHA with documentation signed by any of the following third parties: (a) an employee, agent, or volunteer of a victim service provider; (b) an attorney; (c) a medical professional; or (d) other knowledgeable professional. The person signing the documentation must have assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse. The person signing the documentation must attest under penalty of perjury to his or her belief that the incident or incidents in question are bona fide incidents of abuse. The victim of domestic violence, dating violence, sexual assault, or stalking must also sign the documentation. or

3. Producing a Federal, State, tribal, territorial, or local law enforcement, court, or administrative record.

The applicant may submit the requested documentation with her or his request for an informal review (see section 16-III.D) or request an extension in writing at that time. If the applicant so requests, OHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant OHA determines the family is eligible for assistance, no informal review will be scheduled and OHA will proceed with admission of the applicant family.

Nothing in this Policy shall be construed to require OHA to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive any of the benefits provided in this section. OHA may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

Perpetrator Removal or Documentation of Rehabilitation

OHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, sexual assault, or stalking, OHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation is progressing successfully or was successfully completed. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

OHA Confidentiality Requirements

If because of safety concerns a victim of domestic violence, dating violence, sexual assault, or stalking is unwilling or unable to provide information or identification ordinarily required to confirm eligibility, efforts will be made to otherwise establish eligibility and alternative sources and methods of verification will be accepted.

All information provided to OHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence assault or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law. If disclosure is required for use in an eviction

proceeding or is otherwise required by applicable law, OHA will inform the victim before disclosure occurs so that safety risks can be identified. If disclosure of the information would place the victim's safety at risk, OHA will work with the victim to determine whether there are alternatives to disclosure.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads: Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, 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.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term "developmental disability" means a severe, chronic disability of a person that:

  - attributable to a mental or physical impairment or combination of mental and physical impairments
  - Is manifested before the person attains age twenty-two
  - Is likely to continue indefinitely
  - Results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care; (2) receptive and responsive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency
  - 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.

  (B) Infants and Young Children

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

(4) Is regarded as having an impairment means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

CHAPTER 4

APPLICATIONS, SITE-BASED WAITING LISTS AND TENANT SELECTION

INTRODUCTION

OHA has organized its Public Housing units into a portfolio; and manages an individual site-based waiting list for each site. When a family wishes to reside in a particular public housing site, the family must submit a pre-application for that site-based waiting list at the time the site-based waiting list is open. Site-based waiting lists will be established based on Section 4-II.C. Opening and Closing the Site-based Waiting Lists. The pre-application provides OHA with the information needed to determine the family's initial eligibility for the site-based waiting list. When a unit becomes available, OHA must select families from the site-based waiting lists in accordance with HUD requirements, OHA policies, the ACOP and its MTW Annual Plan.

OHA is required to adopt a clear approach to accepting applications, placing families on the site-based waiting lists, selecting families from the site-based waiting lists, and following this approach consistently. The actual order in which families are selected from the site-based waiting lists can be affected if a family has certain characteristics designated by HUD or OHA to receive preferential treatment.

HUD regulations require that OHA comply with all equal opportunity requirements and affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that OHA complies with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and OHA policies for accepting applications, managing the site-based waiting lists and selecting families from the site-based waiting lists. OHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise OHA's Tenant Selection and Assignment Plan ("TSAP").

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

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

Part II: Managing the Site-based Waiting Lists. This part presents the policies that govern how OHA's site-based waiting lists are structured, when they are opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process OHA will use to keep the site-based waiting lists current.

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits OHA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by OHA. However, OHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of OHA's application [Notice PIH 2009-36].

A two-step process will be used to accept applications. Under the two-step application process. OHA will require families to submit the pre- application and provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the site-based waiting lists. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the site-based waiting list

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

OHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard OHA application process. If an applicant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability or LEP, OHA treats the information as a request for a reasonable accommodation or an accommodation. Any issues regarding this process are subject to the informal hearing processes as stated in Chapter 14.

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

OHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or OHA must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of OHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

OHA is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion of OHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE SITE-BASED WAITING LIST

OHA must review each completed pre-application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless OHA determines the family to be ineligible. Where the family is determined to be ineligible, OHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the site-based waiting lists, or to any particular position on the site-based waiting lists.

Method OHA will use for Placing Apparently Eligible Families on the Waiting List

OHA will use a lottery system to select and place families on the waiting list. Applications will be accepted for a designated period of time as specified in the announcement notice. OHA will take applications that are submitted and randomly assigned a lottery number to each application. The number of families selected will vary according to the number of voucher/units available. OHA may also open the wait list on a continuous basis. In that case, applications received will be accepted continuously and then date and time stamped. These applications may also have a lottery number randomly assigned. Families not selected by the lottery for placement on the waiting list, will be notified within 120 calendar days of receiving a completed application

Ineligible for Placement on the Waiting List

If OHA determines from the information provided that a family is ineligible, the family will not be placed on the site-based waiting list. When a family is determined to be ineligible, OHA will send written notification of the ineligibility determination within 120 calendar days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Site-Based Waiting List

OHA will send written notification of the preliminary eligibility determination within 120 calendar days of receiving a completed application. If applicable, the notice will also indicate the site-based waiting list preference(s) for which the family appears to qualify.

Applicants will be placed on the site-based waiting list(s) according to OHA preference(s) and appropriate applicable procedures.

OHA will assign families on the Public Housing site-based waiting lists according to the bedroom size for which a family qualifies as established in the occupancy standards (see Chapter 5). Families may request to be placed on the site-based waiting list for a unit size smaller than the size designated by the occupancy guidelines (as long as the unit is not overcrowded according to OHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

PART II: MANAGING THE SITE-BASED WAITING LIST

4-II.A. OVERVIEW

OHA must have policies regarding the type of site-based waiting lists it will use, how it will be organized and managed. This includes policies on notifying the public on the opening and closing of the site-based waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how OHA may structure its site-based waiting lists and how families must be treated if they apply for Public Housing since OHA administers more than one assisted housing program. Public Housing applicants must have an opportunity to apply and be considered for OHA's Housing Choice Voucher and Project Based Voucher waiting lists, if the waiting lists are open.

Under MTW authority, OHA is authorized to determine waiting list procedures, tenant selection procedures and criteria, and preferences, including authorizing vouchers for relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. ***This authorization waives certain provisions of Sections 6(r) of the 1937 Act and 24 C>F.R. 903.7 as necessary to implement the Agency's Annual MTW Plan.***

4-II.B. ORGANIZATION OF THE SITE-BASED WAITING LISTS

OHA's public housing site-based waiting lists must be organized in such a manner to allow OHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

The site based waiting lists will contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size and number of family members
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time or site-based waiting list opening date and lottery number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific site(s) selected for site-based waiting list.

OHA will maintain site-based waiting lists for each of its public housing sites.

HUD directs that a family that applies to reside in public housing must be given an opportunity to apply and be considered for placement on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that OHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that OHA maintain a single merged waiting list for their public housing, Housing Choice Voucher, and other subsidized housing programs [24 CFR 982.205(a)(1)].

OHA Policy

OHA will not merge the site-based public housing waiting lists into one centralized waiting list nor will OHA merge the site-based public housing waiting list with the waiting list for any other program OHA operates.

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

Closing the Site-Based Waiting List

OHA is permitted to close the site-based waiting list, in whole or in part, if it has an adequate pool of families to fully lease un developments. OHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

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

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. OHA will publish a notice announcing the opening of the waiting lists in local newspapers of general circulation, media that target LEP's, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. OHA will specify who may apply, and where and when applications will be received.

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

OHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to community based organizations, newspapers, and on line on OHA website at www.oakha.org

OHA is committed to providing safe and decent housing to all eligible individuals and families. Community outreach, during the open application period, is a means of ensuring unrestricted participation.

In order for eligible families to be aware of the various public housing programs and availability, OHA will publish advertisements in newspapers of general circulation, ethnic and gender- focused publications, and other appropriate resources.

OHA will distribute fact sheets to the broadcasting media and initiate personal contacts with news media.

The status of housing availability may be shared with other community service providers to inform them of eligibility requirements and guidelines so that proper referrals to OHA will be made.

Marketing and informational materials will be subject to the following:

(a) compliance with Fair Housing Act requirements on wording, logo, size of type, etc. (24 CFR 109.30(a);

(b) providing an accurate description of the housing units, application process, waiting list and preference structure;

(c) using clear and easy to understand terms and more than strictly English-language print media;

(d) making clear who is eligible: low income individuals and families; working and non-working people; and people with both physical and mental disabilities, and;

(e) specifying that reasonable accommodations will be made for persons with disabilities.

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

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

Because HUD requires OHA to admit a specified percentage of extremely low income families, OHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

OHA outreach efforts must comply with fair housing requirements. This includes:

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

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

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

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

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

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

4-II.F. UPDATING THE WAITING LIST

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

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to OHA's request for information or updates because of the family member's disability, OHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

The waiting list will be updated every two years to ensure that all applicant information is current and timely.

To update the waiting list, OHA will send an update request via first class mail or e-mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that OHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by OHA not later than 30 business days from the date of OHA letter.

If the family fails to respond within 30 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

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

When a family is removed from the waiting list during the update process for failure to respond, an informal hearing will not be offered. Such failures to act, on the part of the applicant, prevent OHA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director or his designee may reinstate the family if she or he determines the lack of response was due to OHA error or to circumstances beyond the family's control.

Removal from the Waiting List

OHA will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required.

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

If a family is removed from the waiting list because OHA has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding OHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

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

The order in which families will be selected from the waiting list depends on the selection method chosen by OHA. The order may be affected, in part, by any selection preferences for which the family qualifies. The availability of units also may affect the order in which families are selected from the waiting list.

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

When an applicant or resident family requests a copy of OHA tenant selection policies, OHA will provide copies to them free of charge.

4-III.B. SELECTION METHOD

OHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that OHA will use.

Under MTW authority, OHA is authorized to determine waiting list procedures, tenant selection procedures and criteria and preferences, including authorizing vouchers for relocation of witnesses and victims of crime that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. ***This authorization waives certain provisions of Sections 8(o)(6), 8(o)(13)(J) and 8(o)(16) of the 1937 Act and 24 CFR 982 Subpart E, 982.305 and 983 Subpart F as necessary to implement the Agency's Annual MTW Plan.***

Local Preferences [24 CFR 960.206]

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

OHA will use the following preferences to select families from the waiting list:

- A Veterans Preference (as required by state law);
- A Residency Preference (for persons living or working in Oakland)
- A Family Preference for applicant families with two or more persons, a single person applicant that is 62 years of age or older, or a single person applicant with a disability.
- A family preference for applicant families that are homeless at admission based on the McKinney Vento Act definition

  Applicants to the public housing conventional program, within the above preferences, will be selected from the waiting list in the order of their assigned lottery number and according to OHA preference(s) for which they qualify. Among applicants with the same preference, families will be selected according to a random selection process.

Income Targeting Requirement [24 CFR 960.202(b)]

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

If a OHA also operates a housing choice voucher ("HCV") program, admissions of extremely low- income families to OHA's HCV program during a OHA fiscal year that exceed the 75% minimum target requirement for the voucher program shall be credited against OHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during OHA fiscal year; (2) ten percent of waiting list admissions to OHA's housing choice voucher program during OHA's fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of OHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low- income family other than an extremely low-income family.

Mixed Population Developments [24 CFR 960.407]

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

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

OHA has designated the following development projects designated for elderly families. OHA has a HUD- approved allocation plan for the following sites:

- Oak Grove North
- Oak Grove South
- Adel Court
- Palo Vista Gardens
- 1621 Harrison Street
- Lakeside Senior

Among the designated developments, OHA must also apply any preferences that it has established.

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

OHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants

into higher income projects. A statement of OHA's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

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

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a OHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a OHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

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

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

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

OHA Policy

OHA determines the average income of all families in all covered developments on an annual basis.

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

OHA Policy

OHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

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

.

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

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

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

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

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

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

Deconcentration Incentives

OHA has three general occupancy (family) public housing developments covered by the deconcentration rule. None of these covered developments has average incomes above or below 85% to 115% of the average incomes of all such developments. OHA will analyze developments on a regular basis according to the deconcentration rule.

Order of Selection [24 CFR 960.206(e)]

OHA's system of preferences may select families either according to the date and time of application or by a random selection process. The Executive Director or designee may elect to select applicants from other program waitlists when the public housing site-based waitlist has been fully exhausted resulting in vacancies.

All OHA programs may offer assistance to other program applicants when the waitlist for a specific program is exhausted.

Among applicants with the same preference, families will be selected according to the date and time or random selection process. Families will be selected from the waiting list based on:

1) When selecting applicants from the site-based waiting lists, OHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the site-based waiting lists. OHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.
2) By matching unit and family characteristics, it is possible that families who are lower on the site-based waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.
3) Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and OHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, OHA must notify the family. OHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

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

If a notification letter is returned to OHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents OHA from making an eligibility determination. (Refer to 4-II.F. Updating the Waiting List)

4-III.D. THE APPLICATION INTERVIEW

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

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

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

The head of household and all adult members of the household must attend the interview together. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to OHA.

The interview will be conducted only if the head of household and all adult members provide appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, OHA will proceed with the interview. If OHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

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

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

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

Interviews will be conducted in English. For LEP applicants, OHA will provide translation services in accordance with OHA's LEP plan. (Refer to Chapter 2) If the family is unable to attend a scheduled interview, the family should contact OHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, OHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without OHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents OHA from making an eligibility determination; therefore OHA will not offer an informal hearing.

The family will be informed of their requirement to attend a mandatory orientation.

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

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

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

> OHA will notify a family in writing of their eligibility within 10 business days of the determination and their scheduled date for an orientation date. OHA will provide the time frame for occupancy.
>
> OHA must notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].
>
> If OHA determines that the family is ineligible, OHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

If OHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before OHA can move to deny the application. See Section 3-III.F. for OHA's policy regarding such circumstances.

Upon making an eligibility determination, OHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-50066) in accordance with the Violence against Women Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility; or (2) when a family is notified of its ineligibility.

CHAPTER 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

OHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. OHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise OHA's Tenant Selection and Assignment Plan ("TSAP").

Policies in this chapter are organized in two parts.

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

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

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

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

5-I.B. DETERMINING UNIT SIZE

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

HUD does not specify the number of persons who may live in public housing units of various sizes. OHA is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62]. Although OHA does determine the size of unit the family qualifies for under the occupancy standards, OHA does not determine who shares a bedroom/sleeping room.

OHA's occupancy standards for determining unit size will be applied in a manner consistent with fair housing requirements.

OHA will use the same occupancy standards for each of the AMP developments. OHA occupancy standards are as follows:

- OHA will assign one bedroom for each two persons within the household, except in the following circumstances:
  - The Head of Household, if single, will be assigned their own bedroom and then one bedroom will be assigned for each remaining two persons within the household.
- A live-in aide will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family. OHA will comply with occupancy standards prior to approving the live-in aide.
- Single person families will be allocated a zero or one bedroom.

OHA will assign bedroom sizes using the maximum number of persons for that unit bedroom size. However, OHA may assign bedroom sizes by the minimum standards to prevent vacancies.
OHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	3
2	2	5
3	4	7
4	6	9

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

When evaluating exception requests, OHA will consider the size and configuration of the unit. In no case will OHA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

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

Processing of Exceptions

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

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

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

OHA will notify the family of its decision within 15 business days of receiving the family's request.

PART II: UNIT OFFERS

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

5-II.A. OVERVIEW

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

In filling an actual or expected vacancy, OHA must offer the dwelling unit to an applicant in the appropriate sequence. OHA will offer the unit until it is accepted. This section describes OHA's policies with regard to the number of unit offers that will be made to applicants selected from the site-based waiting lists. This section also describes OHA's policies for offering units with accessibility features.

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

5-II.B. NUMBER OF OFFERS

OHA has adopted a "two-offer plan" for offering units to applicants. Under this plan, OHA will determine how many units are available within each AMP of suitable size and type.. Applicants will be offered at least 2 units based on the distribution of vacancies within the AMP. If a suitable unit is available in two (2) locations within the AMP, the applicant will be offered two suitable units. The offers will be made in sequence and the applicant must refuse the first offer in writing before a second offer is made. If the applicant refuses at least two unit offers at the same AMP the applicant will be withdrawn from that site-based waiting list.

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

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

Applicants from each site-based waiting list may refuse to accept a unit offer for *"good cause." Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104].

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

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities

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

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

Unit Refusal Without Good Cause

When an applicant rejects the final unit offer without good cause, OHA will remove the applicant's name from the site-based waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance when the site-based waiting list is opened. If the site-based waiting list is not open, the applicant must wait to reapply until OHA opens the site-based waiting list.

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

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

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

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

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, OHA requires the applicant to sign an agreement that will be e incorporated as a lease addendum before moving in to an -accessible unit when available.

OHA Policy

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

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

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

5-II.F. DESIGNATED HOUSING

OHA's policies for offering units designated for elderly families only are described in OHA's Designated Housing Plan.

CHAPTER 6: INCOME AND RENT DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. OHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and OHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and OHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established, HUD regulations require OHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and OHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

Under MTW Authority, OHA is authorized to adopt and implement any reasonable policy to establish payments, rents or subsidy levels from tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. OHA is authorized to adopt and implement any reasonable policies to calculate the tenant portion of rent that differ from the currently mandated program requirement in the 1937 Act and its implementing regulations. ***This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 CFR 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A, as necessary to implement the Agency's Annual MTW Plan***

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> 2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

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

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

OHA Policy

Under MTW Authority, OHA may implement reasonable family payment policy including total tenant payment, minimum rent, utility reimbursements and tenant rent, including but not limited to establishing definitions of income and adjusted income, or earned income disallowance. The Authority may adopt and implement term limits for its public housing assistance. Such policies will include provisions for addressing hardship cases. ***This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.***

Under MTW authority, OHA may provide elderly and disabled families with an option to have their income calculated every three years with a fixed annual cost of living increase or decrease in rent based on the annual cost of living increase for Social Security.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

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

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

Absent Students

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

Absences Due to Placement in Foster Care

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

If a child has been placed in foster care, OHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head or Co-head

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member. (Refer to Chapter 3)

Absences Due to Military Duty

A family member is temporarily absent from the unit if the family can return to the unit within 30 days of the conclusion of active duty services and if not absent from the unit for more than 180 days. The remaining family members can remain in the unit by paying the required rent. If the length of service extends beyond 180 days, OHA may waive the 180 day limit subject to verification of the absence due to active duty service

Family Members Permanently Confined for Medical Reasons

A former family member confined to a nursing home or hospital on a permanent basis is not considered a family member and the income of that person is not counted

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

Joint Custody of Children

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

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary 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 should claim them, OHA 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. (Refer to Chapter 3.)

Caretakers for a Child

Upon notification or determination that neither a parent nor a designated guardian remains in a household receiving assistance, OHA will take the following actions.

Caretaker will not apply for eligibility

- The caretaker will notify OHA in writing of their decision to remove the child from the unit and will not request to apply for eligibility as program participant HOH. The family will receive 30 days' notice of program termination and the owner will receive 30 days' notice of contract cancellation.
- The caretaker will notify OHA in writing that they will remain in the unit; however, they will not request to apply for eligibility as program participant HOH. The family will receive 30 days' notice of program termination and the owner will receive 30 days' notice of contract cancellation.

Caretaker to apply for eligibility while living in unit

- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as an authorized visitor for 90 days; and will be required to sign the *Use of Space License Agreement.*

- During the initial 30-day period, the caretaker must pass OHA criminal activity and suitability screening and the caretaker must initiate formal custody or legal guardianship with a responsible agency and provide documentation to OHA. If after 90 days has lapsed and the caretaker has not initiated the process to obtain formal custody or legal guardianship, OHA will proceed with action to recover the unit.

- If formal custody or legal guardianship is awarded to a caretaker, the caretaker will be required to sign the lease as head of household (subject to the caretaker meeting all OHA eligibility admissions criteria for Public Housing Program participation.)

- Only a head of household will be added to the household subsidy size cannot be increased. If the new HOH has additional family members, the mixed family proration will be used to calculate the subsidy. The new members are considered ineligible based on the Caretaker for a Child Rule Only.

- The head of household will no longer qualify for program participation if the minor is no longer a member of the household.

- During any period that a caretaker is considered a visitor, the income of the caretaker is not 'counted in annual income and the caretaker does not qualify the family for any deductions from income.
- OHA may extend the caretaker's status as an eligible visitor up to 180 days..
- Caretakers will be required to sign a document acknowledging that the caretaker is not a

party to the lease nor entitled to OHA assistance. The caretaker is only approved to live in the unit while serving as the caretaker for the participant minor children. The caretaker will be required to comply with all house rules.

- If a caretaker is deemed ineligible to become a family member;. OHA will send notice to the applicant caretaker/visitor of denial. The notice will inform the caretaker/visitor of their right to request an Informal Hearing and how to request an Informal Hearing. (See Chapter 14).

6-I.C. ANNUAL INCOME

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

Basis of Annual Income Projection

OHA will use current or historical circumstances to determine income for the coming 12-month period. HUD authorizes OHA to use other than current circumstances to anticipate income when:

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

OHA Policy

OHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale

for the decision will be documented in the file. In all such cases the family may present information and documentation to OHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If OHA verifies an upcoming increase or decrease in income, annual income will

be calculated by applying each income amount to the appropriate part of the 12-month period.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, OHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if OHA's policy on reexaminations does not require interim reexaminations for other types of changes.

Using Up-Front Income Verification ("UIV") to Calculate Income

OHA is required to use HUD's Enterprise Income Verification (EIV) system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].
HUD allows OHA to use UIV information in conjunction with family-provided documents to anticipate income.

OHA Policy

OHA procedures for determining annual income will include the use of UIV methods approved by HUD. If the UIV information is not available, OHA will use family- provided documents dated within the last 60 days of OHA interview date .

OHA will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available" in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of $200 or more per month.

No Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by less than $200 per month, OHA will follow these guidelines:

- If the UIV figure is less than the family's figure, OHA will use the family's information.
- If the UIV figure is more than the family's figure, OHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, OHA will use the family-provided information.

Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by $200 or more per month, OHA will follow these guidelines:

- OHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).
- When OHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), OHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- OHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
- OHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

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

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

OHA Policy

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

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

OHA Policy

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

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

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must

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

Income of a Live-in Aide

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

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

Income from some federal programs is specifically excluded from consideration as income, including:

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

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

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

State and Local Employment Training Program

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

OHA Policy

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

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

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

End of participation in a training program must be reported in accordance with OHA's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant ("CDBG"), HOME program, and other grant funds received from HUD.

OHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit Earned income tax credit ("EITC") refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance The earned income disallowance is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16]

The earned income disallowance ("EID") encourages people to enter the work force by not including the full value of increases in earned income for a period of time. Effective April 7, 2016, the EID benefit guidelines were changed from a 24-month benefit which could spread across 48 months to accounts for intermittent job losses, to a straight 24-month period of benefits with a clear start date and end date, irrespective of whether a family maintains continual employment during the 24-month period. Eligibility criteria and limitations on the disallowance are summarized below.

OHA Policy

Resident families that were receiving EID benefits prior to the April 7, 2016 rule changes, will continue to receive benefits according to the regulations in effect at the time EID benefits began until the benefit period expires for these families.

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families ("TANF") or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

OHA Policy [MTW]

Households participating in the MTW Rent Reform Pilot are not eligible for EID.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Residents qualifying prior to May 9, 2016 will have the disallowance calculated under the "Original Calculation Method" described below, which requires a maximum lifetime disallowance period of up to 48 consecutive months. Residents qualifying on or after May 9, 2016 will be subject to the "Revised Calculation Method,." Which shortens the lifetime disallowance period to 24 consecutive months. Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Original Calculation Method
Initial 12-Month Exclusion

The initial 12-month exclusion period begins on the date a member of the qualified family is first employed or the family first experiences an increase in annual income attributable to employment. During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings over the baseline is excluded. The 12 months are consecutive, irrespective of whether a family maintains continual employment.

OHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and OHAe-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a two year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 consecutive months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

OHA Policy

During the 24-month eligibility period, OHA will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below baseline income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Revised Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

OHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, OHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

OHA Policy

During the second 12-month exclusion period, OHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

Individual Savings Accounts [24 CFR 960.255(d)]

OHA Policy

OHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

OHA Policy

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

Business Expansion

HUD regulations do not permit OHA to deduct from gross income expenses for business expansion.

OHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit OHA to deduct from gross income the amortization of capital indebtedness.

OHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means OHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require OHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

OHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, OHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

OHA Policy

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

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that OHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, OHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and OHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7

General Policies

Income from Assets

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

(3) OHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, OHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

OHA Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to OHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires OHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

OHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]]

When the family has net family assets in excess of $50,000, OHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by OHA.OHA will establish a passbook rate within 0.75 percent of the Savings National Rate at www.fdic.gov/regulations/resources/rates/. and review it annually on July 1 of each year.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly-Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

OHA Policy

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

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

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require OHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

OHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

OHA Policy

OHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $50,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

OHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

OHA Policy

Families must sign a declaration form at initial certification and each scheduled recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. OHA may verify the value of the assets disposed of if other information available to OHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

OHA Policy

In determining the value of a checking account, OHA will use the average monthly balance for the last six months.

In determining the value of a savings account, OHA will use the current balance.

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

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

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

OHA Policy

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based

on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), OHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121]. Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways:

(1) owning the property itself and

(2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

OHA Policy

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

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, OHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

OHA Policy

In determining the value of personal property held as an investment, OHA will use the family's estimate of the value. However, OHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

OHA Policy

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

OHA Policy

When a delayed-start payment is received and reported during the period in which OHA is processing an annual reexamination, OHA will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with OHA.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Treatment of Overpayment Deductions from Social Security Benefits

OHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, OHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  OHA Policy

  OHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].
  Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

OHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a state or other public agency ('welfare agency') under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)].

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, OHA must include in annual income "imputed" welfare income. OHA must request that the welfare agency inform OHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon OHA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

OHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

OHA Policy

OHA will count court-awarded amounts for alimony and child support unless OHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Regular Contributions or Gifts

OHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

OHA Policy

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

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

1. Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
2. Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
3. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
4. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
5. Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
6. Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
7. Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
8. Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:

(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
(b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
(c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
(d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual

Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

(q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(s) Kinship Payments - Kinship payments are foster care subsidies for children living with a related legal guardian. Previously, Public Housing Agencies (OHA) included California's Kinship Guardian Assistant Payments (Kin-GAP) as income when determining annual household income. Congress and housing advocates sought our interpretation of the income criteria in order to remove a disincentive towards family unification and to treat Kin-GAP the same as foster care payments. (PIH 2008-40)

(t) Deferred Department of Veteran Affairs (VA) disability benefits that are received in a lump sum or in prospective monthly amounts. [Section 2608 of Title VI of Division B of the Housing and Economic Recovery Act (HERA) July 30, 2008]

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Under MTW Authority, OHA may implement reasonable family payment policy including total tenant payment, minimum rent, utility reimbursements and tenant rent, including but not limited to establishing definitions of income and adjusted income, or earned income disallowance. The Authority may adopt and implement term limits for its public housing assistance. Such policies will include provisions for addressing hardship cases. ***This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.***

Overview

HUD regulations require OHA to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (OHA) must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

OHA Policy

All mandatory deductions are eliminated for all households participating in the MTW Rent Reform Pilot (Activity #13-01).

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

OHA Policy

Generally, OHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), OHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, OHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. OHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)]

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

OHA Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502

Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, and non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and come costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g. eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but not nonprescription medicines even if they are recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)

Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

Families that Qualify for Both Medical and Disability Assistance Expenses

OHA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work,

(2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

OHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, OHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When OHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30]. HUD advises OHA to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, OHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

OHA Policy

OHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, OHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and OHA will consider, the family's justification for costs that exceed typical costs in the area.

Families that Qualify for Both Medical and Disability Assistance Expenses

OHA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older

or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

OHA Policy

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

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

Seeking Work

OHA Policy

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

Furthering Education

OHA Policy

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

Being Gainfully Employed

OHA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the EID or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

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

OHA Policy

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

OHA Policy

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

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

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

Necessary and Reasonable Costs

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

OHA Policy

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

To establish the reasonableness of child care costs, OHA will use the schedule of child care costs from Alameda County Social Services agency. Families may present, and OHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

OHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

Under MTW Authority, OHA may implement reasonable family payment policy including total tenant payment, minimum rent, utility reimbursements and tenant rent, including but not limited to establishing definitions of income and adjusted income, or earned income disallowance. The Authority may adopt and implement term limits for its public housing assistance. Such policies will include provisions for addressing hardship cases. ***This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section6(l) of the 1937 Act and 24 C.F.R. 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A as necessary to implement the Agency's Annual MTW Plan.***

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent between $0 and $50 that is established by OHA

OHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

OHA Policy

The TTP of families participating in the MTW Rent Reform Pilot will be calculated based on whether they are identified as Senior, Disabled, or Work-Eligible. Senior and Disabled households TTP is calculated as 27.5 percent of the family's gross monthly income and Work-Eligible families TTP is 27 percent of the family's gross monthly income.

Minimum Rent [24 CFR 5.630]

OHA Policy

The minimum rent for this locality is $50, except for households participating in the MTW Rent Reform Pilot, in which case the minimum rent is $25.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

OHA have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of OHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

OHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to OHA's designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

OHA Policy

OHA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing. Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

OHA Policy

OHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(3)] [MTW]

OHA is not limited to establishing a utility allowance schedule in accordance with HUD requirements. OHA is authorized to establish a utility allowance policy for the MTW public housing program that will reduce costs and achieve greater cost effectiveness in Federal expenditures.

OHA Policy

Under MTW authority, OHA will eliminate the Utility Reimbursement Payment (URP). The URP will no longer be provided for program households each month.

For MTW Rent Reform Hardship, see section 6-III.B.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If OHA establishes a minimum rent greater than zero, OHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If OHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by OHA.

OHA currently has not established fixed hardship criteria, but will consider each case individually

MTW Rent Reform Hardships

OHA will provide notification to all households at least six-months prior to implementation of the new UA policy. Households that submit a request and qualify as a hardship case will receive an additional six-month deferment of the new UA policy. All requests for extensions of the hardship period will be reviewed by the Executive Director, or his designee, on a case-by-case basis. The hardship policy applies to cases that meet the following criteria:

- The UA or URP decreased by greater than $50, and
- Head of household/Co-head/Spouse is elderly or disabled, or
- Household verifies enrollment in a reduced rate utility program (i.e. PG&E CARE).

Implementation of Financial Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, OHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

OHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

OHA Policy

OHA defines temporary hardship as a hardship expected to last 90 days or less. Long- term hardship is defined as a hardship expected to last more than 90 days.

OHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP.

OHA Policy

To qualify for a hardship exemption for minimum rent, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

OHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If OHA determines there is no financial hardship, OHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon OHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

OHA Policy

OHA will require the family to repay the suspended amount within 30 calendar days of OHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If OHA determines that a qualifying financial hardship is temporary, OHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay OHA the amounts suspended. HUD requires OHA to offer a reasonable repayment agreement, on terms and conditions established by OHA. OHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon OHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

OHA Policy

OHA will enter into a repayment agreement in accordance with OHA's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If OHA determines that the financial hardship is long-term, OHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

OHA Policy

OHA will review the family's income and hardship status every 120 days and ensure the family is participation in supportive services

The hardship period ends when any of the following circumstances apply:

- At an interim or next scheduled reexamination, the family's calculated TTP is greater than the minimum rent.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. An OHA-established utility allowance schedule is used when determining a family's income-based rent. OHA must use the utility allowance applicable to the number of certified bedrooms assigned to the family.

Under MTW Authority, OHA is authorized to adopt and implement any reasonable policy to establish payments, rents or subsidy levels from tenant-based assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. OHA is authorized to adopt and implement any reasonable policies to calculate the tenant portion of rent that differ from the currently mandated program requirement in the 1937 Act and its implementing regulations. ***This authorization waives certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 CFR 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A, as necessary to implement the Agency's Annual MTW Plan***

OHA is not limited to establishing a utility allowance schedule in accordance with HUD requirements. OHA is authorized to establish a utility allowance policy for the MTW public housing program that will reduce costs and achieve greater cost effectiveness in Federal expenditures. Policies developed under MTW authority also are designed to encourage low income families to take advantage of reduced rate utility programs and to conserve and control their energy consumption.

For policies on establishing the MTW utility allowances, see Chapter 16-I.B.

Reasonable Accommodation [24 CFR 8]

On request from a family, OHA must approve a utility allowance that is higher than the applicable amount for the number of individuals in the household if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability.

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

At reexamination, OHA may use its current MTW utility allowance schedule.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

OHA Policy

Unless OHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first scheduled reexamination after the allowance is adopted, up to and including any utility allowance schedule developed under MTW authority.

For families on a biennial/triennial reexamination schedule, revised utility allowances will be applied on the earlier of the first anniversary date or first reexamination date following the adoption of the revised utility allowances.

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

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

1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible (family maximum subsidy) .
(2) Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
(3) Multiply the member maximum subsidy by the number of eligible family members. The product of this step is the amount of subsidy the family is eligible to receive.
(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.
(6) When the mixed family's TTP is greater than the applicable flat rent, OHA will use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

OHA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by OHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

OHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. OHA must document that flat rents were offered to families under the methods used to determine flat rents for OHA.

OHA Policy

Upon admission and each subsequent regularly scheduled reexamination OHA will offer the family the choice between flat and income-based rent.

OHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

OHA must provide sufficient information for families to make an informed choice. This information must include OHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year, OHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

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

OHA Policy

Upon determination by OHA that a financial hardship exists, OHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by OHA to be appropriate

OHA Policy

OHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Change in Flat Rents

OHA Policy

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

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

(3) Which are not specifically excluded in paragraph (c) of this section.

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

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

[1] Text of 45 CFR 260.31 follows (next page).

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to OHA and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, OHA or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

(a) *Definitions*. The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

(b) *Disallowance of earned income*--. Exclusion from annual income -

(1)*Previously unemployed* includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by OHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(b) *Disallowance of increase in annual income*.

(1) *Initial twelve month exclusion*. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, OHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) *phase-in of rent increase.* Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, OHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of this section.

(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that

date.

(c) *Inapplicability to admission*. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts*. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a OHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) OHA must advise the family that the savings account option is available;

(2) At the option of the family, OHA must deposit in the savings account the total amount that would have been included in tenant rent payable to OHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by OHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) OHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and OHA may not charge a fee for maintaining the account;

(5) At least annually OHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, OHA shall pay the tenant any balance in the account, minus any amounts owed to OHA

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to OHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of OHA, the welfare agency will inform OHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform OHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. OHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at OHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to OHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) OHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of OHA decision.*

(1) Public housing. If a public housing tenant claims that OHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if OHA denies the family's request to modify such amount, OHA shall give the tenant written notice of such denial, with a brief explanation of the basis for OHA determination of the amount of imputed welfare income. OHA notice shall also state that if the tenant does not agree with OHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review OHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on OHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review OHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if OHA denies the family's request to modify such amount, OHA shall give the family written notice of such denial, with a brief explanation of the basis for OHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with OHA determination, the family may request an informal hearing on the determination under OHA hearing procedure.

(e) *OHA relation with welfare agency.*

(1) OHA must ask welfare agencies to inform OHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives OHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) OHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to OHA. However, OHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. OHA shall be entitled to rely on the welfare agency notice to OHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7: VERIFICATION [24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

OHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. OHA must not pass on the cost of verification to the family.

OHA will follow the verification guidance ("VG") provided by HUD in PIH Notice 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary OHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by OHA.

Under MTW Authority, OHA may adopt and implement reasonable policy for verifying family income and composition and for determining resident eligibility that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. This authorization waives certain provisions of 24 CFR 982.516 and 982 Subpart E, as necessary to implement the Agency's Annual MTW Plan. MTW process and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard Section 8 rules and regulations apply.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

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

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information and OHA 290103, Authorization Release Form. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and OHA may collect information from State Wage Information Collection Agencies ("SWICAs") and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service ("IRS") and the Social Security Administration ("SSA"). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, OHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with OHA's grievance procedures.

OHA Policy (pending HUD approval)

OHA may require each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign the HUD approved OHA Authorization Release Form/Privacy Act Notice form in lieu of the form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010 – 19]

HUD authorizes OHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires OHA to use the most reliable form of verification that is available and to document the reasons when OHA uses a lesser form of verification.

OHA Policy

In order of priority, the forms of verification that OHA will use are:

- UIV using EIV whenever available
- UIV using non-HUD system
- Written Third-party Verification
- Written Third Party Form
- Oral Third Party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

OHA Policy

Any documents used for verification must be the original (not photocopies) and generally
must be dated within 120 calendar days of the date they are provided to OHA. The documents must not be damaged, altered or in any way illegible.

OHA will accept documents dated up to six (6) months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, OHA would accept the most recent report.

Print-outs from web pages are considered original documents.

OHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to OHA and must be signed in the presence of an OHA representative.

E-File or File Documentation

OHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that OHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

When OHA is unable to obtain third-party verification, OHA will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2010-19].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to OHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to OHA.

OHA restricts access to and safeguards UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until OHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through OHA's informal review/hearing processes.

Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires OHA to use the EIV system when available. The following policies will apply when OHA has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

EIV Income Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

OHA Policy

OHA will obtain TID reports for scheduled reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the

reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When OHA determines through Income reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Discrepancy Reports

The EIV discrepancy reports a tool for identifying families who may have concealed or under-reported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 months and 30 months old at the time reports are generated. Families who have not concealed or under-reported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.

OHA Policy

OHA will generate and review discrepancy report every six months. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing the discrepancy report, OHA will begin with the largest discrepancies.

When OHA determines that a participant appearing on the Income Discrepancy Report has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed.

OHA will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, OHA will request third-party written verification of the income in question.

When OHA determines through file review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth.

OHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

OHA Policy

OHA will identify participants whose identity verification has failed as part of the annual reexamination process.

OHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents.

When OHA determines that discrepancies exist due to OHA errors such as spelling errors or incorrect birth dates, the errors will be corrected.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Third-party verification will be sent only once and if it is not returned within 10 business days, OHA will use document review.

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to OHA by the family. If written third-party verification is not available, OHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

OHA Policy

OHA will make a minimum of one attempt, which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no- answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, OHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

OHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

OHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

OHA Policy

Third-party documents provided by the family must be dated within 60 days of OHA request date.

If OHA determines that third-party documents provided by the family are not acceptable, OHA will explain the reason to the family and request additional documentation.

As verification of earned income, OHA will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, OHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

OHA Policy

OHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by OHA. OHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. OHA will send a written request for verification to each required source within 2 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing.

Oral Third-Party Verification [Notice PIH 2010-19]

For third-party oral verification, OHA contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

OHA should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

OHA Policy

In collecting third-party oral verification, OHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided. When any source responds verbally to the initial written request for verification OHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Information is late

When third-party verification has been requested and the time frames for submission have been exceeded, OHA will use the information from documents on a provisional basis. If OHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, OHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of OHA's interim reexamination policy.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

OHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value. [HCV GB, p. 5-28].

Value of Assets and Asset Income [24 CFR 960.259]

For families with net assets totaling $5,000 or less, OHA may accept the family's declaration of asset value and anticipated asset income. However, OHA is required to obtain third-party

verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

OHA Policy

For families with net assets totaling $5,000 or less, OHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

OHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

If the family cannot provide original documents, OHA will accept a self-certification will be acceptable as the only means of verification or on-line documentation. The cost of verification will not be passed on to the family.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when OHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and OHA has adopted a policy to accept self
- certification at annual recertification, when applicable
- OHA has adopted a policy to implement streamlined annual recertifications for fixed
- sources of income (See Chapter 9)

When OHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

OHA Policy

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

OHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to OHA and must be signed by the family member whose information or status is being verified. All self- certifications must be signed in the presence of an OHA representative.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

OHA Policy

OHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Current, valid driver's license or California identification card or	Certificate of birth or
U.S. Passport or	Permanent Residence ID or
U.S. Military Identification Cards or	Adoption papers or custody agreement or
Permanent Residence ID	Health and Human Services ID or
	School records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required. If none of the primary documents is available to establish legal identity for adults, OHA will require any two of these documents:

- Original copy of a certificate of birth
- Alien Registration Receipt Card (Form I-155)
- Temporary Resident Card (Form I-688)
- Arrival-Departure Record (Form I-94)
- Consulate or city issued identification cards

- Church-issued baptismal certificate
- U.S. military discharge (DD 214)
- Voter's registration card
- Company/agency identifications cards

If none of these documents can be provided, then the case will be forward to the department director, who will make the determination based on regulations.

At the time of admission if you are unable to provide one of the documents required in the first group, legal identity will have to be verified through the use of fingerprinting.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, PIH 2012-10, as amended by MTW]

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

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

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

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

OHA Policy

OHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to OHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if OHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

OHA Policy

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

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. OHA may not add the new household member until such documentation is provided.

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

OHA Policy

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

Social security numbers must be verified only once during continuously-assisted occupancy.

OHA Policy

OHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," OHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next interim or regularly scheduled reexamination.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

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

OHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, OHA 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. Refer to self-certification procedures.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

OHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

OHA Policy

Certification by the head of household is normally sufficient verification. If OHA has reasonable doubts about a marital relationship, OHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

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

Separation or Divorce

OHA Policy

Certification by the head of household is normally sufficient verification. If OHA has reasonable doubts about a separation or divorce, OHA will require the family to document the divorce, or separation with a certified copy of a divorce decree, signed by a court officer, a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

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

Foster Children and Foster Adults

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

7-II.E. VERIFICATION OF STUDENT STATUS

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

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

7-II.F. DOCUMENTATION OF DISABILITY

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

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

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

Family Members Receiving SSA Disability Benefits

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

OHA Policy

For family members claiming disability who receive SSI or other disability payments from the SSA, OHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification ("EIV") system when it is available, or HUD's Tenant Assessment Subsystem ("TASS"). If documentation from HUD's EIV System or TASS is not available, OHA will request a current (dated within the last 120 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), OHA will ask the family or assist the family in requesting a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or resident receives the benefit verification letter they will be required to provide it to OHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for the site-based waiting list preferences or certain income disallowances and deductions.

OHA Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is available to families that include at least one member who is a citizen, national, or eligible immigrant. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and OHA's verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

U.S. Citizens and Nationals

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

OHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

OHA Policy

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

Eligible Immigrants

Documents Required

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

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

OHA Verification [HCV GB, pp 5-3 and 5-7]

For family members under the age of 62 who claim to be eligible immigrants, OHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

For family members who are age 62 or older are eligible immigrants. No further verification of eligible immigration status is required. Proof of age is required in manner described in 7-II.C. OHA will follow all USCIS protocols for verification of eligible immigration status.

OHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

OHA must verify any preferences claimed by an applicant.**7-II.I. VERIFICATION OF STATE LIFETIME SEX OFFENDER REGISTRATION [Notice: PIH 2012-28]**

Regularly scheduled documents will include a question asking whether the participant or any member of the participant's household is subject to a lifetime sex offender registration program in any state.

OHA will verify sex offender information using the California Megan's Law website and the Dru Sjodin National Sex Offender Database website or other certified criminal search vendors and National databases; and document this information in the same method used at admission.

For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and Other Criminal Activity final rule), if the reexamination screening reveals that the participant or a member of the participant's household is subject to a lifetime sex offender registration requirement, or that the participant has falsified information or otherwise failed to disclose his or her criminal history on their reexamination forms, OHA will pursue termination of tenancy to the extent allowed by their lease and state or local law.

Notwithstanding the above, if the participant or member of the participant's household, regardless of when they were admitted, commits criminal activity while living in federally assisted housing, OHA will pursue eviction or termination of tenancy to the extent allowed by their lease and state or local law.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides OHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

OHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year. For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

OHA Policy

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

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

OHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

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

If a family member has been self-employed less than three (3) months, OHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve months, OHA will require the family to provide documentation of income

and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

OHA Policy

To verify the SS/SSI benefits of residents, OHA will obtain information about social security/SSI benefits through The HUD EIV System or the TASS.

If benefit information is not available in HUD systems, OHA will assist the family in requesting benefit verification letter by either calling SSA at 1-800-772- 1213, or by requesting it from www.ssa.gov.

Once the resident has received the benefit verification letter they will be required to provide it to OHA.

7-III.D. ALIMONY OR CHILD SUPPORT

OHA Policy

The way OHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order:

- If payments are made through a state or local entity, OHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments. Third-party verification from the person paying the support is not required if the Authority is able to obtain documentation from the state or local entity.
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received
- If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:
- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

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

OHA Policy

OHA will verify, through the director or designee, the value of assets disposed of only if: OHA does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.

7-III.F. NET INCOME FROM RENTAL PROPERTY

OHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant

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

7-III.G. RETIREMENT ACCOUNTS

OHA Policy

Families will be required to report retirement accounts. When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, OHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, OHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, OHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I. OHA must obtain verification for income exclusions only if, without verification, OHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, OHA will confirm that OHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

For fully excluded income, OHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

OHA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, OHA have the option of requiring additional verification.

For partially excluded income, OHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

OHA Policy

OHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, OHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The families on zero income status will be evaluated every 90 days

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that OHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. OHA will verify that:

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

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. OHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

OHA Policy

OHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible

- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case, OHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. OHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, OHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or a person with disabilities. OHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for OHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

OHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

OHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, OHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and

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

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

OHA Policy

OHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

OHA Policy

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party verification is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, OHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).

- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. OHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

OHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

OHA Policy

OHA will seek third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

OHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source. The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, OHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable in accordance with Alameda County Self Sufficiency Index.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. OHA will verify that the child being cared for (including foster children) is under the age of 13. (See 7-II.C.)

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

OHA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

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

Pursuing an Eligible Activity

OHA must verify that the family member(s) the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

OHA Policy

Information to be Gathered
OHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible, OHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, OHA will request verification from the agency of the member's job-seeking efforts to date and require the family to submit to OHA any reports provided to the other agency.

In the event third-party verification is not available, OHA will provide the family with a form on which the family member must record job search efforts. OHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

OHA will ask the academic or vocational educational institution to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

OHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

OHA Policy

OHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

OHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

OHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

OHA Policy

The actual costs the family incurs will be compared with OHA's established standards, which are the Alameda County expense limits of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, OHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	**Highest** (Mandatory)
5	**Upfront Income Verification (UIV)** using non-HUD system	**Highest** (Optional)
4	**Written third Party Verification**	**High** (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute)
3	**Written Third Party Verification Form**	**Medium-Low** (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	**Oral Third Party Verification**	**Low** (Mandatory if written third party verification is not available)
1	**Tenant Declaration**	**Low** (Use as a last resort when unable to obtain any type of third party verification)

Exhibit 7-2: Summary of Documentation Requirements for Non-citizens [HCV GB, pp. 5-9 and 5-10)

- **All** non-citizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to OHA.
- Except for persons 62 or older, all non-citizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

Elderly Non-Citizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age, such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All Other Non-Citizens

- Non-citizens who claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation Stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

- Form I-94 Arrival-Departure Record with no annotation, accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken)
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/01/90)
  - A court decision granting withholding of deportation
  - A letter from an asylum officer granting withholding of deportation (if application filed on or after 10/01/90)

- Form I-688 "Temporary Resident Card" annotated "Section 254A" or "Section 210"

- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12"

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, the will be announced by notice

CHAPTER 8: LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between OHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require OHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, OHA may require additional inspections in accordance with OHA policy.

This chapter is divided into three parts as follows:

Part I: Leasing. This part describes pre-leasing activities and OHA's policies pertaining to lease execution, modification and payments under the lease.

Part II: Inspections. This part describes OHA's policies for inspecting dwelling units.

Part III Use of Space License Agreement **or** Leasing Units to OHA Police Officers and Maintenance Workers: This part describes OHA's policy pertaining to leasing units to police officers and OHA employed maintenance workers under a Use of Space License Agreement. [24 CFR 960.505

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term if the tenant meets annual eligibility and recertification requirements.[24 CFR 966.4(a)(2)]

Part I of this chapter contains regulatory information, when applicable, as well as OHA's policies governing leasing issues.

8-I.B. OCCUPANCY AND LEASE ORIENTATION

OHA Policy

After unit acceptance but prior to occupancy, an OHA representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with a copy of the following:

- The lease and addenda
  A. OHA's grievance procedure
  B. House Rules
  C. Mold Notification
  D. Lead Based Paint Disclosure
  E. Pest Control
  F. Animal Policy Addendum
  G. Schedule of Maintenance Fees
  H. Parking Policy
  I. Drug-Free Environment Tenant Agreement
  J. Community Service Eligibility Form
  K. Flat Rent Notification and Election Form
  L. Accessible Unit Notifications
  M. Unlawful Activities
  N. Satellite Dish
  O. Information about the protections afforded by the Violence Against Women Reauthorization Act (VAWA)
  P. Smoke-Free Public Housing Policy

- The Protect Your Family From Lead in Your Home pamphlet
- Is Fraud Worth It? (form HUD-1141-OIG)
- What You Should Know about EIV,
- Green Clean Kit

Topics to be discussed will include:

- Review and explanation of lease provisions and each addenda listed above
- Applicable deposits and other fees
- Unit maintenance and work orders (maintenance fees and inspections)
- OHA's reporting requirements (household changes and lease compliance)

- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- Integrated Pest Management
- Green Clean Kit

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and OHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one OHA unit to another. All current lease non-compliance issues and active lease compliance agreements will be transferred to the new lease, including but not limited to past due rent repayment agreements.

The lease must state the composition of the household as approved by OHA (family members and any OHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

OHA Policy

The head of household, spouse or co-head, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and OHA will retain a copy in the resident's file. Any family member that turns 18 during the lease term will be required to sign the current lease within 30 days of date of birth.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide stating that the live-in aide is not a party to the lease and is not entitled to OHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member. The live-in aide will be required to comply with all house rules.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and OHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

OHA may modify its lease from time to time; however, OHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. OHA must also consider any comments before formally adopting the new lease [24 CFR 966.3]. After proposed changes have been incorporated into the lease and approved by OHA Board of

Commissioners, each family must be notified at least 30 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

OHA Policy
The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of maintenance and administrative fees and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty (30) days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments.

The notice will be posted on the agency website, as well as in the property management office. Comments received within the thirty (30) days must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the each OHA office location, on the agency website, and must be furnished to applicants and tenants on request [24 CFR 966.5]. Any notice changing the terms of tenancy for a current tenant will be served in compliance with Code of Civil Procedure section 1162 and/or Civil Code section 827.

OHA Policy
When OHA proposes to modify or revise schedules of maintenance and administrative fees rules, policies and/or regulations, OHA will post a copy of the at each leasing office, OHA website and will mail a notification of the change to each resident family. OHA will maintain proper documentation of the notice for maintenance fees.

Other Modifications

OHA Policy
The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and OHA will be required to sign and date the change.

If a new household member is approved by OHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and OHA will be required to sign and date the change. If the new member of the household is an adult, he or she will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

Tenant shall pay a security deposit of two hundred fifty dollars ($250.00) and this amount must be paid in full prior to occupancy unless a financial hardship exists as defined in Section 6-III.B. OHA may use the security deposit upon termination of the lease or rental agreement for any purpose permitted under California law.

OHA Policy

Residents must pay a security deposit to OHA at the time of admission.

OHA will hold the security deposit for the period the family occupies the unit. OHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Under California law, within 21 calendar days after you move, your landlord must either:

- Send a full refund of your security deposit, or
- Mail or personally deliver an itemized statement that lists the amounts of any deductions from your security deposit and the reasons for the deductions, together with a refund of any amounts not deducted.

If the resident transfers to another unit, OHA will process the security deposit based on the maintenance charges incurred on the "old" unit. A new security deposit will be required for the "new" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

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

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

OHA Policy
The tenant rent is due and payable at an OHA-designated location on the first of every month.

If a family's tenant rent changes, OHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Posting of Payments.

All payments made to OHA by the family are processed using an automated system that processes bulk processing and posting of all rent payments, therefore all payments, without regard to notations on the physical payment instrument, will be posted in the following order:

1. Security deposit
2. Services
3. Other charges (NSF, Late, legal fees)
4. Past Due Rent
5. Current Month's Rent

Late Fees and Nonpayment

OHA's lease will include a penalty when the family is late in paying tenant rent. Penalties for late payments will be issued as stated below [24 CFR 966.4(b)(3)].

OHA Policy
Rent is due on the first (1st) of every month, and it is considered late on the second (2nd). If a tenant fails to pay rent by the tenth (10th) day of the month, a 14 day Notice to Pay Rent or Quit will be issued to the tenant. A fifteen-dollar (15.00) late charge will be assessed if rent is not received by the tenth (10th) day of the month. Partial payments that do not cover all rent owed shall result in a $15.00 late fee charged to the tenant.

OHA will charge $15.00 for late fee for rent payments not received by the fifth day of the month.

Payments made that do not cover all the rent owed (partial payments) shall result in a $15.00 late fee charged on the next rental statement as provided for in the lease or rental agreement.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $15.00 will be charged to the family. Any resident with a payment returned for insufficient funds will be required to pay their rent with money order or cashier's check for a period of 12 months.

Excess Utility Charges

If OHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)]. Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].
The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after OHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].
The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under OHA grievance procedures. OHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

OHA Policy
When applicable, families will be charged for excess utility usage according to OHA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after written notice is provided to the tenant. If the family requests a grievance hearing
within the required timeframe, OHA may not take action for nonpayment of the charges until the conclusion of the grievance process.
Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Fees

If OHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of maintenance fees for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the AMP administrative office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that fees for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after OHA gives written notice of the fees. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under OHA grievance procedures. OHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

OHA Policy

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

Notices of maintenance and damage fees charged will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Payment of fees are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, OHA may not take action for nonpayment of the maintenance and damage fees charged until the conclusion of the grievance process.

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

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require OHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, OHA may require additional inspections, in accordance with OHA Policy. This part contains OHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

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

The lease requires OHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by OHA and the resident, must be provided to the tenant and be kept in the resident file.

OHA Policy

Head of household must attend the move-in inspection and sign the inspection form.

Move-Out Inspections [24 CFR 966.4(i)]

OHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to OHA. OHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

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

OHA Policy
When applicable, OHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 days of conducting the move-out inspection.

Annual Inspections

Section 6(f)(3) of the United States Housing Act of 1937 requires that OHA inspect each public housing development annually to ensure that the units are maintained in decent, safe, and sanitary condition. OHA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

OHA Policy

OHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

OHA Policy
Supervisory quality control inspections will be conducted in accordance with OHA's maintenance policies.

Special Inspections

OHA's Policy
OHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance and routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

OHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to UPCS, REAC standards and OHA's maintenance policies.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

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

OHA may enter the unit, with reasonable advance notification, to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of OHA entry delivered to the dwelling unit at least 24 hours before such entry is considered reasonable advance notification. Civil Code Section 1954 (d)(1).

OHA Policy

In accordance with state law, OHA will notify the resident in writing at least 24 hours prior to any non- emergency inspection.

For regular annual inspections, the family will receive at least 72 hours written notice of the inspection to allow the family to prepare the unit for the inspection.

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

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

Scheduling of Inspections

OHA Policy

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

Attendance at Inspections

The head of household is required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

OHA Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a notification of inspection in the unit.

OHA will not enter the unit when there are unsupervised minor children present.

8-II.D. INSPECTION RESULTS

OHA is obligated to maintain dwelling units, building, and all common spaces of AMP property in a decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify OHA of the damage, and OHA must make repairs within a reasonable time frame.

If OHA cannot make repairs quickly, OHA must offer the family standard alternative accommodations. If OHA can neither repair the defect within a reasonable time frame nor offer temporary alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. During temporary relocation to the alternate

accommodation, the resident shall sign a *Use of Space License Agreement* for the temporary unit and shall continue to pay rent for the unit under their lease agreement.

If the damage was caused by a household member or guest, OHA must charge the family for the reasonable cost of repairs. OHA may also take lease enforcement action against the family. Rent shall not be abated if the damage was caused by a household member of the household, or guest, or if the resident rejects the alternative accommodations approved by OHA.

OHA Policy

If OHA cannot make repairs quickly, OHA must offer the family standard alternative accommodations. If OHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, OHA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

Non-emergency Repairs

OHA Policy

OHA will correct non-life threatening health and safety defects within 15 business days of the inspection date. If OHA is unable to make repairs within that period due to circumstances beyond OHA's control (e.g. required parts or services are not

available, weather conditions, etc.) OHA will notify the family of an estimated date of completion.

The family must allow OHA access to the unit to make repairs.

Resident-Caused Damages

OHA Policy
Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Fees.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

OHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, mold and mildew or cause damage to the unit are in violation of the lease. In these instances, OHA will issue a pre-notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

A pre-notice of lease violation will be issued to residents who purposely disengage the unit's smoke detector and the resident will be assessed a maintenance charge for labor and materials associated with the smoke detector replacement. Only one warning will be given. A second incidence may result in lease termination.

PART III: SPECIAL OCCUPANCY IN PUBLIC HOUSING UNITS

8-III.A. LEASING PUBLIC HOUSING UNITS TO POLICE OFFICERS

HUD 24 CFR 960.505 allows special Occupancy in public housing: For the purpose of increasing security for residents of a public housing development, OHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. OHA must include in OHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents

Definition:

Police officer. For purpose of this subpart E, ‘‘police officer’’ means a person determined by OHA to be during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

OHA Policy

OHA will execute “Use of Space License Agreements” to qualified police officers for long and/or short term residency in OHA communities where the officers’ physical presence is expected to serve as a deterrent to criminal activity in and around the community**. 24 CFR 960.505**

There are a total of 2 units allocated for this purpose located at the Lockwood and Peralta Villa sites.

8-III.B. LEASING PUBLIC HOUSING UNITS TO MAINTENANCE WORKERS

OHA has set aside units to house maintenance workers to provide emergency repair.

CHAPTER 9:

REEXAMINATIONS [24 CFR 960.257, 960.259, 966.4]

Under MTW Authority, OHA may adopt and implement reasonable policy for verifying family income and composition and for determining resident eligibility that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. ***This authorization waives certain provisions of 24 CFR 960.257 and 960 Subpart B, as necessary to implement the Agency's Annual MTW Plan.***

MTW process and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard Public Housing rules and regulations apply

INTRODUCTION

OHA is required to reexamine each family's income and composition at least annually and to adjust the family's rent accordingly. The frequency with which OHA must reexamine income for a family depends on whether the family pays income-based or flat rent. OHA must conduct a reexamination of family composition at least annually, and conduct a reexamination of family income at least once every three years.

HUD requires OHA to offer all families the choice of paying income-based rent or flat rent at least annually. OHA's policies for offering families a choice of rents are located in Chapter 6. [24 CFR 960.257(c)].

As a participant in the MTW program, OHA may alter this requirement for wage earning families and/or elderly and disabled families on fixed incomes . These families may have their income reexamined every two or three years, depending on the source of income, instead of each year. Interim reexaminations are also needed in certain situations.

OHA must conduct an annual review of community service requirement compliance for all public housing residents. OHA's policies for verifying community service compliance are located in Chapter 11.

This chapter discusses both regularly scheduled and interim reexaminations and the recalculation of family rent, reexaminations of family composition, and related exceptions that occurs. HUD regulations and OHA policies concerning reexaminations are presented in three parts:

Part I: Annual, Biennial, and Triennial Reexaminations. This part discusses the process for scheduling and conducting annual, biennial, and triennial reexaminations of income, family composition, and related exceptions based on sources of family income. Annual reexaminations will be conducted for families that have reported "no income" or "non-wage income". Biennial reexaminations will be conducted for families that have reported at least one wage earning source and triennial reexaminations will be conducted for elderly and disabled families on fixed incomes. This part also discusses the reexamination effective dates and information to be collected, verified

Part II: Interim Reexaminations. This part includes HUD requirements and OHA policies related to when a family may and must report changes that occur between regularly scheduled reexaminations.

Part III: Recalculating Tenant Rent. This part describes the policies that affect recalculation of the tenant rent after gathering and verifying required information for a regularly scheduled or interim reexamination, OHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

For elderly or disabled families on a fixed income and that have opted for reexaminations every three years, recalculation of family rent may result from the application of a cost of living factor.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to regularly scheduled and interim reexaminations.

PART I: ANNUAL, BIENNIAL, TRIENNIAL REEXAMINATIONS FOR FAMILIES [24 CFR 960.257 as amended by MTW]

9-I.A. OVERVIEW

OHA must conduct a reexamination of income, family composition, and related exceptions at least once every:

- Year (annual) for families who report no income, income from non-wage sources, mixed income from fixed sources, or families enrolled in Special Programs (FSS).
- Two years (biennial) for families that report at least one established income from wage earnings
- Three years (triennial) for elderly and disabled families receiving all income from a fixed source (Social security, Pension)

The chart summarizes the alternative reexamination schedule (Exhibit 9-1).

All reexaminations include gathering and verifying current information about family composition, income, and expenses. Based on this updated information, OHA must recalculate the family's income and rent and offer flat rent

9-I.B. SCHEDULING ANNUAL, BIENNIAL, AND TRIENNIAL REEXAMINATIONS

OHA must establish a policy to ensure that the reexamination for each family is completed within a 12 month period for non-wage earning families, a 24-month period for qualifying, wage earning families, and a 36-month period for elderly and disabled families on fixed incomes that qualify for triennial reexaminations.

OHA Policy

OHA will begin the reexamination process at least 60 days in advance of its scheduled reexamination effective date. Generally, OHA will schedule reexamination effective dates to coincide with the anniversary date.

OHA also may schedule a reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Regularly Scheduled Reexamination Process

OHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of OHA. OHA will give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. OHA will provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

Families are required to provide current and accurate information on income, assets, allowances deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

OHA Policy

OHA may elect not to require a family to attend a scheduled reexamination. A family that is not required to attend a scheduled interview must return to OHA the completed reexamination forms, required information and supporting documentation requested in the reexamination packet within the timeframe stated on the reexamination notice

Families generally are required to participate in a regularly scheduled reexamination interview, which must be attended by the head of household, spouse, or co-head. If attending an in-person interview poses a hardship because of a family member's disability, the family should contact OHA to request a reasonable accommodation (see Chapter 2).

Notification of scheduled reexamination interviews will contain the date, time, and location of the interview. The notification will be sent by first-class mail and will include a packet of required forms the family must complete and bring to the interview will be. In addition, the notice will inform the family of the information and supporting documentation that must be brought to the interview. OHA staff will note whether the family requires translation services and will arrange for such services to be provided, upon family request.

If the family is unable to attend a scheduled interview, the family should contact OHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview OHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without OHA approval, or if the notice is returned by the post office with no forwarding address, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

OHA may elect not to require a family to attend a scheduled reexamination. A family that is not required to attend a scheduled interview must return to OHA the completed reexamination forms, required information and supporting documentation requested in the reexamination packet within the timeframe stated on the reexamination notice.

9-I.C. CONDUCTING REGULARLY SCHEDULED REEXAMINATIONS

The terms of the public housing lease require the family to provide updated information regarding income, and family composition for the redetermination of rent, eligibility, and the appropriate size housing unit [24 CFR 966.4(c)(2)].

OHA Policy

Families will be asked to bring the completed reexamination forms and supporting documents requested in the reexamination packet to the scheduled interview.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

For families that were not required to attend a scheduled interview and are unable to provide all required documents and information by the date stated in the reexamination notice, a notice will be sent that the required documents and information must be provided within 10 business days of the date of the notice.

The family is required to report any and all changes prior to the effective date of the annual update and/or recertification. These changes include but are not limited to household composition, all household income and citizenship status.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

As part of its ongoing quality control audit process, OHA may request one or more of the forms listed above if an audit determines that the file copies are missing or incomplete.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. OHA may use the results of the reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

OHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

At the reexamination, OHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

If OHA proposes to terminate assistance based on lifetime sex offender registration information, OHA will notify the household of the proposed action and provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.) Regulations for hearings as described in Chapter 14 still apply.

Compliance with Community Service

For families who include nonexempt individuals, OHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for OHA's policies governing compliance with the community service requirement.

9-I.D. REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED OR FLAT RENTS [24 CFR 960.257(a)(2)]

HUD requires OHA's to offer all public housing families the choice of paying income-based rent or flat rent at least annually. OHA policies for offering families a choice of rents are located in Chapter 6.

HUD requires OHA's to conduct annual reexaminations of income and family composition for families that choose income-based rent. Families who choose flat rents must have a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)].

The flat rent amount a family pays is not locked in for the three-year period. Instead, OHA will revise the flat rent amount from year to year based on the findings of the rent reasonableness analysis and changes to the FMR, or other approved MTW activities or initiatives.

OHA is only required to provide the amount of income-based rent the family might pay in those years that OHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As a participant in the MTW program, OHA may alter these requirements for working families and elderly/disabled families on fixed incomes. Families may have their income reexamined every two or three years, respectively. Interim reexaminations are also needed in certain situations.

OHA Policy

OHA will continue to offer families the option of an income-based or flat rent annually and review community service compliance annually.

The reexamination schedule for all income-based and flat rent family's will be determined based on the criteria discussed in section 9-I.B. A reexamination of the family's income, family composition, and related exceptions will be conducted at the scheduled reexamination.

Reexamination of Family Composition ("Annual Update")

OHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

As a participant in the MTW program, OHA may alter these requirements for all families.

OHA Policy

OHA will conduct family composition updates at the scheduled reexamination.

OHA requires all families to report changes in family composition when they occur which may require an interim reexamination to reflect the change.

9-I.E. EFFECTIVE DATES

As part of the annual reexamination process, OHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

OHA Policy

In general, an *increase* in the tenant rent that results from a regularly scheduled reexamination will take effect on the family's anniversary date and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If OHA chooses to schedule a reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by OHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the regularly scheduled reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the regularly scheduled reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from a reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the regularly scheduled reexamination, d*ecreases* in the tenant rent will be applied, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by OHA by the date specified, and this delay prevents OHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-II.A. OVERVIEW

Family circumstances may change throughout the period between scheduled reexaminations. HUD and OHA policies dictate the changes in family circumstances that must be reported, the required documentation, and under what circumstances OHA must process interim reexaminations to reflect those changes. HUD regulations also permit OHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying the changes the family must report, HUD regulations permit the family to request an interim determination if there is a change to other aspects of the family's income or composition. OHA must complete the interim reexamination within a reasonable time after the family's request and required documents have been submitted.

This part includes HUD and OHA policies describing what changes families are required to report, what changes families may choose to report, and how OHA will process both OHA- and family-initiated interim reexaminations.

9-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

OHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, OHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

OHA Policy

All families must report all changes in family and household composition that occur between scheduled reexaminations.

OHA may conduct interim reexaminations to account for any changes in family and household composition that occur between regularly scheduled reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require OHA approval. However, the family is required to promptly notify OHA of the addition [24 CFR 966.4(a)(1)(v)].

OHA Policy

The family must inform OHA of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request OHA's approval to add a new family member [24 CFR966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

When any new family member is added, OHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

OHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which OHA consent will be given or denied. Under such policies, the factors considered by OHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- OHA's obligation to make reasonable accommodation for persons with disabilities.

OHA Policy

The family does not have a right for an informal hearing if OHA does not approve the addition of a family or household member.

Families must request OHA approval to add members including but not limited to: live-in aide, foster child, or foster adult. The request must be made in writing and approved by OHA prior to the individual moving into the unit.

OHA will only approve the addition of a foster child or foster adult if it does not cause a violation of occupancy standards.

OHA will only approve adding a minor with proof of court awarded guardianship, custody, or placement by a social service agency.

OHA approval is required for any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 45 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest."

OHA will not approve the addition of a new family or household member unless the individual meets OHA's eligibility criteria (see Chapter 3), documentation requirements (see Chapter 7, Part II), and the addition to the unit does not violate occupancy standards. If OHA determines that an individual does not meet OHA's eligibility criteria as defined in Chapter 3, OHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

If OHA determines an individual meets OHA's eligibility criteria as defined in Chapter 3 and adding the new member will not violate occupancy standards, OHA will provide written approval to the family.

OHA will make its determination of approval or denial and notify the family in writing within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify OHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], OHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

OHA Policy

The family must inform OHA within 10 business days. If a family member no longer lives in the unit. This requirement also applies to family members who had been considered temporarily absent and are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform OHA within 10 business days.

9-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because OHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, OHA may take different actions depending on whether the family reported the change voluntarily or because the family was required to do so.

OHA-initiated Interim Reexaminations

OHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by OHA. They are not scheduled because of changes reported by the family.

OHA Policy

OHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), OHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent OHAe-in period).

If the family has reported zero income, OHA may conduct an interim reexamination every 90 days as long as the family continues to report that they have no income.

If at the time of the regularly scheduled reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), OHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the regularly scheduled reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, OHA will conduct an interim reexamination.

OHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant non-compliance complaint such as failure to report income and/or family composition changes. Chapter 16 discusses OHA policies concerning family debt due to underpayment of rent.

Family-Initiated Interim Reexaminations

HUD regulations give OHA the discretion to determine the circumstances under which families will be required to report changes affecting income. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

OHA Policy

Families that qualify for an annual reexamination are required to report all increases in household income, including new employment and additional income sources, within 10 business days of the date the change takes effect.

Families scheduled for biennial reexaminations are not required to report increases in household income.

Families scheduled for triennials are not required to report increases in existing Social Security or pension benefits, however, must report any new or additional sources of income.

OHA may conduct interim reexaminations for families that reported zero income, qualify for the earned income disallowance (EID), or families that no longer quality for their biennial or triennial reexaminations. In all other cases, OHA will note the information in the tenant file, but will not conduct an interim reexamination.

The family is required to report any changes prior to the effective date of the scheduled recertification. These changes include but are not limited to household composition, all household income and citizenship status.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. OHA will process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

OHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, OHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, OHA will conduct an interim reexamination, unless the decrease in income is due to resignation, termination for cause, or any other reason based on the participants actions, the family's share of the rent will not be reduced until the annual reexamination.

See Section 9- II.D. for effective dates.

Families must report changes in income or expenses within 10 days of the change.

9-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

OHA Policy

The family must notify OHA of changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if OHA determines that an interview is warranted, the family must attend.

Based on the type of change reported, OHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from OHA. This time frame may be extended for good cause with OHA approval. OHA will accept required documentation by mail, by fax, or in person.

Effective Dates

OHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 960.257(b)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time

OHA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documents were submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING TENANT RENT

9-III.A. OVERVIEW

After gathering and verifying required information for a scheduled reexamination or interim reexamination, OHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-III.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in OHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

OHA Policy

Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

Unless OHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first scheduled reexamination after the allowance is adopted, up to and including any utility allowance schedule developed under MTW authority.

For families on a biennial/triennial reexamination schedule, revised utility allowances will be applied on the earlier of the first anniversary date or first reexamination date following the adoption of the revised utility allowances.

COLAs (MTW)

While OHA will not conduct an annual reexamination for elderly and disabled families on fixed incomes, at the discretion of the Executive Director or the designee, OHA may use any COLAs (either positive or negative) that affect the income of families in these groups to recalculate family share and subsidy. This adjustment will be effective annually on the lease anniversary date.

9-III.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires OHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When OHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of OHA's schedule of Utility Allowances for families in OHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, OHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of OHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under OHA's grievance procedure [24 CFR 966.4(c)(4)].

OHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent

9-III.D. DISCREPANCIES

During an annual or interim reexamination, OHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, OHA may discover errors made by OHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Exhibit 9-1 Summary of the Alternative Recertification Schedules			
	Annual	**Biennial**	**Triennial**
Frequency	Once per year	Once every 2 years	Once every 3 years

Target Group	Households with:
	• **No income at all (zero income)**
	• **No income from wages**
	• **Income from a temporary source** such as
	  ○ Temporary Assistance for Needy Families (TANF)
	  ○ General Assistance GA)
	  ○ Child Support
	  ○ Unemployment
	  ○ Other non-wage sources
	• Mixed income from fixed source (e.g. Social Security (SS), Supplemental Security Income (SSI)) and temporary source (e.g. TANF, GA)
	❖ Also includes households enrolled in Special Programs (e.g. Mainstream, Mod Rehab, VASH, MOMS, Local Program, and FSS –some Special Program types will follow alternative recertification schedule)
		Households with:
		• **Any income from wages**
		• Mixed income from wage source and fixed source (e.g. SS, SSI)
		• Mixed income from a wage source and a temporary source (e.g. TANF, child support)
			Elderly and/or Disabled Head of Households with:
			• **All income from a fixed source** such as:
			  ○ SS
			  ○ SSI
			  ○ Pension

During the Interim Years	✓ Required to report increases in income when it occurs ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs	✓ Not required to report increases in income ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs	✓ Not required to report increases in fixed income ✓ Required to report any new or non-fixed income sources ✓ May report decreases in income at any time ✓ Must report changes in household composition when it occurs ✓ Cost of Living Adjustment (COLA) may be automatically applied to household's related income subsidy (once per year at interim recertification)
Hardship Policy	Households can request a review, at any time, of OHA's determination of their adjusted income, and the use of such income to compute their tenant rent if they feel it has been calculated incorrectly.		

CHAPTER 10

ANIMALS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This explains OHA's policies on the keeping of animals and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of OHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of OHA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals and pets. Policies related to the designation of a service animal, an assistance animal and their care and handling are discussed in this part.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly developments and general occupancy developments.

PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 960.705]

10-I.A. OVERVIEW

This part discusses situations under which permission for a service or an assistance animal may be denied, and also establishes standards for the care of services and assistance animals. OHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705] do not apply to service animals or assistance animals. All lease provisions apply for service and assistance animals, including maintaining a clean, sanitary unit and ensuring neighbors enjoy the premises in a peaceful, quiet, and nonthreatening environment. The expense of flea elimination shall also be the responsibility of the resident.

OHA requires documents verifying that all animals living in OHA units, including service animals and assistance animals, are licensed, have had their shots and/or documented as healthy animals by a vet or pet shop owner. Any damage caused by a service or assistance animal to the unit and/or common areas of the dwelling will be charged to the tenant for the cost of repairing the damages and may include deduction from the security deposit on move out

.

10-I.B SERVICE ANIMALS

The Department of Justice (DOJ) under the American with Disabilities Act (ADA) makes a distinction between a *"**service animal**"* and "***assistance animal***." *"Service animals"* are limited to trained dogs. *"**Service animals**"* are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA."

OHA may deny a request for a service animal in limited circumstances:

- The animal is out of control and the handler does not take effective action to control it,
- The animal is not housebroken, or
- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies

A service animal must be permitted in all areas of the facility where members of the public are allowed.

Residents must submit a reasonable accommodation to gain approval

10-1.C ASSISTANCE ANIMALS

"Assistance animals" may include animals other than dogs and are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as "service animals," "assistive animals," "support animals," companion animal" or "therapy animals" – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

The assistance animal should be allowed to accompany the person wherever people are normally allowed to go, unless it is assessed that allowing access would "impose an undue burden or would fundamentally alter the nature of the housing provider's services." This assessment must be made on a case by case basis. OHA does not require assistance animals to be individually trained or certified. Include definitions for each type of animal according to the law.

10-I.D. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

OHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

OHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable documented objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause l physical damage to the property of others

OHA has the authority to regulate assistance animals under applicable federal, state and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

OHA Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and OHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.E. CARE AND HANDLING

HUD regulations do not affect any authority OHA may have to regulate assistance animals under federal, state and local law [24 CFR 5.303; 24 CFR 960.705].

OHA Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an service animal or assistance animal violates these policies, OHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If OHA determines that no such accommodation can be made, OHA may withdraw the approval of a particular service animal or assistance animal. If the service animal or assistance animal is not removed from the rental dwelling upon the withdrawal of approval for the particular service animal or assistance animal then OHA may initiate eviction proceedings.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pet and applies to all OHA owned properties.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

OHA requires registration of the pet with OHA [24 CFR 960.707(b)(5)].

OHA Policy

Pets must be registered with OHA before they are brought onto the premises.

Registration includes written documentation signed by a licensed veterinarian or state/local authority which verifies that the pet has been spayed or neutered, received all inoculations required by state or local law, has no communicable disease(s), is pest-free, is a healthy pet, and weighs 25lb or less.

The pet agreement must be renewed annually and will be coordinated with the annual reexamination date. The resident must provide proof each year that the pet continues to meet all of the stated requirements.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register Pets

OHA Policy

OHA will refuse to register a pet if:

- The pet is not *a common household pet* as defined in Section 10-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- OHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If OHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of OHA's decision. The notice will state the reason for refusing

to register the pet and will inform the family of their right to appeal the decision in accordance with OHA's grievance procedures.

Pet Agreement

OHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with OHA or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of OHA's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with OHA's pet policy and applicable house rules may result in the withdrawal of OHA approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)] Guidelines

OHA may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit
- Prohibitions on types of animals that OHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

OHA may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize OHA to define the term [24 CFR 5.306(2)].

OHA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a pet kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals
- feral animals
- Pot-bellied pigs
- Animals used for commercial breeding
- Barnyard animals (City ordinance Section 6.04.320)

.

OHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Pet Restrictions

OHA Policy

The following animals are not permitted:

- Any animal whose t weight will exceed 25 pounds
- Any animal whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
- Any animal not permitted under state or local law or code

Other Requirements

OHA Policy

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET/OWNERSHIP RULES

Pet owners must maintain pets responsibly, in accordance with OHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

OHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) animals must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building. Pet owners are not permitted to exercise pets or permit pets to deposit waste on residential site premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

OHA may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

OHA may direct initial tenant moves as may be necessary to establish pet and no-pet areas. OHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. OHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

OHA may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

OHA Policy

OHA will provide a 90 day notice to residents of newly designated "no pets" buildings, floors of buildings, and/or sections of buildings.

Unit Inspections/ Maintenance Repairs

During all unit inspections and maintenance repairs, animals must be crated while inside the unit or removed from the interior of the unit and kept at a reasonable distance to allow staff to perform inspections and/or repairs

Cleanliness

OHA Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by OHA. The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

OHA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

OHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

OHA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage OHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Tethering and *chaining* refers to the practice of fastening a dog to a stationary object or stake, usually in the owner's yard, as a means of keeping the animal under control. These terms do not refer to the periods when an animal is walked on a leash.

Responsible Parties

OHA Policy
The pet owner will be required to designate two responsible parties for the care of the pet

if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify OHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

OHA Policy

- Pets that are not owned by a tenant are not allowed on the premises. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by OHA.

- Residents are prohibited from feeding or harboring stray animals.

Pet Rule Violations

OHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement. This includes if a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, a 30 or 60-day notice to cure or quit will be served. Said notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

A 30 or 60-day notice will contain a brief statement of the factual basis for the determination of the pet rule(s) that were violated.

Pet Removal

OHA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if OHA after reasonable efforts cannot contact the responsible party, OHA may contact the appropriate state or local agency and request the removal of the pet.

Emergencies

OHA Policy

OHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for OHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES

10-III.A. OVERVIEW

This part describes OHA's policies for pet deposits and fees in elderly, disabled and mixed-population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

OHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The amount of pet deposit that may be charged by OHA is $250 per pet per dwelling unit. OHA may permit payments in increments of $50 per payment for the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

OHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits.

Refund of Deposit [24 CFR 5.318(d)(1)]

OHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet. OHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the unit. OHA may return the pet deposit upon completion of an inspection or if the owner no longer owns or keeps a pet in the unit.

OHA Policy

OHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

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

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

OHA Policy

All reasonable expenses incurred by OHA as a result of damages directly

attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address OHA's ability to impose charges for house pet rule violations. However, charges for violation of OHA pet rules may be treated like charges for other violations of the lease and OHA tenancy rules.

OHA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, OHA may not take action for nonpayment of the charge until the conclusion of the grievance process. Charges for pet waste removal are not part of rent payable by the resident.

CHAPTER 11 COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring OHA to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and OHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: OHA Implementation of Community Service. This part provides OHA policy regarding OHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). OHA and residents must comply with the community service requirement, effective with fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), OHA's Plan must contain a statement of how OHA will comply with the community service requirement, including any cooperative agreement that OHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, OHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of OHA who is not exempt must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or

Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

- The required community service or self-sufficiency activity may be completed at 8 hours each month or may be added together during a 12-month period, as long as 96 hours is completed by each annual certification. (**Notice PIH-2015-12 (HA))**

  .

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who is:

- Age 62 years or older
- Blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- A primary caretaker of such an individual
- Engaged in work activities

  OHA Policy

  OHA will consider 8 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Able to meet the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the state in which OHA is located, including a state-administered welfare-to-work program; or
- A member of a family receiving assistance, benefits, services under a state program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the state in which OHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

- Able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which OHA is located, including a state-administered welfare-to-work program

  - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified

Community Service [PH Occ GB, p. 174]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities

Eligible community service activities includes, but are not limited to:

- Local public or nonprofit institution including but not limited to: schools, Head Start Programs, before-or after- school programs, childcare centers, hospitals, hospices, recreation centers, senior centers, adult daycare centers, homeless shelters, feeding programs, food banks (distributing donated or commodity foods), clothes closets (distributing donated clothes), etc.;

- Nonprofit organization that serves OHA residents or their children such as: local churches, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, Police Athletic League, organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations;

- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;

- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts;

- OHA to help improve physical conditions (so long as such work does not alter OHA's insurance coverage); help with children's and/or senior programs; or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board

- Helping neighborhood groups with special projects

- Caring for the children of other residents so they may volunteer

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include, but are not limited to:

- Job readiness or job training while not employed;
- Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers;
- Higher education (junior college or college);
- Employment counseling work placement;
- Basic skills training; ,
- English as a second language and/or English proficiency; ,
- Reading, financial, household management, or computer literacy classes;
- Apprenticeships (formal or informal);
- Budgeting or credit counselling; or
- Any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not

received a high school diploma or a certificate of high school equivalency

- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016-06]

OHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for OHA verification of exempt status. OHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. The family must also sign a certification annually, certifying that they understand the requirement. OHA must notify that OHA will be validating a sample of self-certifications of completions of the service requirement accepted by OHA under 24 CFR 960.607(a)(1)(ii).

OHA Policy

OHA will provide the family with a copy of the Community Service Policy, at lease-up, reexamination, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by OHA.

On an annual basis, at the time of lease renewal, OHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt at the time of reexamination. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

OHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

OHA Policy

At least 60 days prior to the annual update, OHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or OHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, OHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

OHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, OHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

OHA Policy

Approximately 60 days prior to the end of the lease term, OHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit OHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe or an OHA approved extension, the subject family members will be

considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

OHA Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to OHA within 30 calendar days.

Within 30 calendar days of a family reporting such a change or OHA determining such a change is necessary, OHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the 30 day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to OHA within 30 calendar days by submitting a completed CSSR Exemption Form and provide supporting documentation, if necessary. Any claim of exemption will be verified by OHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 15 business days of a family reporting such a change or OHA determining such a change is necessary, OHA will provide the family written notice that the family member is no longer subject to the community service requirement, if OHA is able to verify the exemption.

The exemption will be effective immediately upon OHA's issuance of written notice of exempt status.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

OHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

OHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form. OHA will provide a completed copy to the family and will keep a copy in the tenant file.

OHA will verify that an individual is exempt from the community service requirement.

OHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with OHA's determination, he or she can dispute the decision through OHA's grievance procedures. (See Chapter 14.)

Documentation and Verification of Compliance [24 CFR 960.607(a)]

If qualifying community service activities are administered by an organization other than OHA, a family member who is required to fulfill a service requirement must provide to OHA one of the following:

1) A completed Community Service Participation Log, obtained from OHA, signed by the CSSR eligible organization certifying that the family member has performed the qualifying activities for the required hours, and includes the contact information for the community service provider with a description of activities performed, and the dates of service. [24 CFR 960.607]. This form must also be signed by the family member certifying completion of the activities on the log and that the organization signatures are authentic.
2) A completed Community Service Participation Log, signed by the family member self-certifying compliance with the community service requirement. (FR Vol 81 No. 45).
3)

OHA Policy

If anyone in the family is subject to the community service requirement, OHA will provide the family with community service documentation forms at initial lease-up, at annual update, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and telephone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to OHA, upon request by OHA, at least annually.

OHA may accept signed self-certifications of compliance. Any self-certification may be subject to validation by third party verification. If OHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, OHA has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

OHA may not evict a family due to CSSR noncompliance. However, if OHA finds a tenant is noncompliant with CSSR, OHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that OHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with OHA or the family provides written assurance that is satisfactory to OHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The written agreement must include the means through which a noncompliant family member will comply with the CSSR.

The notice must also state that the tenant may request a grievance hearing on OHA's determination, in accordance with OHA's grievance procedures, and the tenant may exercise any available judicial remedy to seek timely redress for OHA's nonrenewal of the lease because of OHA's determination.

OHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before OHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them, and include formal removal of the family member from the lease.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, OHA will terminate tenancy in accordance with the policies in Section 13- IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, OHA is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, OHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by OHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits

.

OHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and *will also serve as the family's termination notice*. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before OHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

OHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in OHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

OHA Implementation of Community Service

OHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by OHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

OHA Policy

OHA will notify its insurance company if residents will be performing community service at OHA. In addition, OHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that he or she is able to perform community service, OHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

OHA Program Design

OHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including the Resident Advisory Boards, and community agencies or institutions [24 CFR 960.605(b)].

OHA Policy

OHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

OHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. OHA will work with the Resident Advisory Boards and community organizations to ensure residents have access to a variety of volunteer opportunities. OHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, OHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in OHA Plan.

OHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who:

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

CHAPTER 12

TRANSFER POLICY

INTRODUCTION

This chapter explains OHA's transfer policy, based on HUD regulations, HUD guidance, and OHA policy decisions.

This chapter describes HUD regulations and OHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers due to unit conditionsemergency transfer procedures, inter-program, inter-portfolio transfers and payment of transfer costs. High-priority transfers for confidential client requests (ccrs) requiring an immediate move due to threat of harm, criminal activity or reasonable accommodation requests are discussed in Section 12-III.B. Types of Resident Requested Transfers.

Part II: OHA Required Transfers. This part describes types of transfers that may be required by OHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

OHA may require the resident to move from the unit under some circumstances. There are also emergency circumstances under which alternative accommodations must be provided for the resident, that may or may not require a transfer.

The resident may also request a transfer, such as a request for a new unit as a reasonable accommodation.

OHA must have specific policies in place to deal with acceptable transfer requests.

OHA may create a "transfer" waitlist consisting of transfer requests and households on the transfer list may be offered assistance in public housing or the Section 8 Program.

Under MTW authority and with Executive Director approval, OHA may standardize the transfer policy to allow inter-program moves and transfers between the public housing, Housing Choice Voucher, or Project-based Voucher programs, if there are PBV units or HCV available and the resident is determined to be eligible for the relevant program. OHA may also allow participants of local, non-traditional programs to transfer to the public housing program provided that the family has met the program guidelines specified in the local program. This policy is authorized under Attachment C, Section C.2. of the Amended and Restated Moving to Work Agreement.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

This section discusses emergency transfers due to unit conditions. HUD categorizes certain circumstances as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from other transfers in that it requires immediate action by OHA. An emergency is defined as maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members. Any condition that would produce an emergency work order, as defined under the Public Housing Assessment System (OHA) Management Assessment Subsystem will be considered an emergency. Examples of such unit or building conditions would include for example: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks..

OHA will qualify a resident for an emergency transfer if OHA is unable to make repairs within 24 hours. OHA will take such action to remain compliant with the lease obligations, [PH Occ GB, p. 14, 24 CFR § 966.48 (i), 901.25 (a), 966.4 (h)(4)]

.

12-I.B. CONDITIONS OF UNIT EMERGENCIES

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, OHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

OHA Policy

The following defines an emergency circumstance warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

In the case of a genuine emergency, it may be unlikely that OHA will have the time or resources to immediately transfer a resident. Under such circumstances, if an appropriate unit is not immediately available, OHA should find alternate accommodations for the resident until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible. OHA may transfer the resident to a unit at another OHA or 3rd Party Public Housing Site.

12-I.C. EMERGENCY RELOCATIONS

OHA Policy

If a temporary relocation is necessary because of maintenance conditions, and an appropriate unit is not immediately available, OHA will provide temporary accommodations to the resident by arranging for temporary lodging. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, OHA will transfer the resident to the first available and appropriate unit after the temporary relocation. OHA may transfer the resident to another OHA or 3rd party Public Housing unit.

Emergency transfers that arise due to maintenance conditions are mandatory for the resident as defined by OHA compliance with UPCS.

12-I.D. COSTS OF EMERGENCY TRANSFER

OHA may bear the reasonable costs of temporarily accommodating the resident's alternative lodging when emergency conditions exist and the damage was not caused by the resident.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

OHA will establish a moving allowance based on the typical costs in the community of packing, moving,\ and unloading. To establish typical costs, OHA will collect information from companies in the community that provide these services.

If the tenant elects to move their belongings OHA will reimburse the family for eligible out of pocket moving expenses up to OHA's established moving allowance.

12-I.E. OHA HIGH PRIORITY INTER-PROGRAM AND INTER-PORTFOLIO TRANSFER POLICY

Under MTW authority and subject to approval by the Executive Director, or his or her designee, OHA may allow for an high-priority inter-program or inter-portfolio transfer between the public housing program, designated Section 8 PBV or HCV programs based on availability.

Inter-program transfers may be offered if the resident is eligible for the relevant program. OHA will conduct threshold eligibility screening to meet program requirements so as to eliminate duplicating screenings that were performed at entry into the initial program. The transfer may include transfer to designated 3rd party PBV, public housing sites, or by approval from the Executive Director or his designee, the Housing Choice Voucher program.

Where applicable, transfer applicants must be in good standing or have worked out a repayment agreement with OHA prior to OHA initiating the transfer. Inter-program/Inter-portfolio transfers will be processed in the following order:

- Threat of harm, criminal activity, domestic violence and/or VAWA
- Reasonable Accommodation as outlined in Chapter 2-II.A-H of this ACOP
- Occupancy Standards as outlined in Chapter 5 of this ACOP

Exceptions to the above policy must be approved by the Executive Director or his designee.

.

PART II: OHA-REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to OHA to develop reasonable transfer policies.

OHA may require that a resident transfer to another unit under some circumstances. For example, OHA may require a resident to transfer to make an accessible unit available to a disabled family. Additionally, OHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, OHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by OHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF OHA REQUIRED TRANSFERS

OHA Policy

The types of transfers that may be required by OHA, include, but are not limited to transfers due to the following:

- make an accessible unit available for a disabled family,
- comply with occupancy standards,
- demolition, disposition, revitalization, or rehabilitation, and
- emergency transfers as discussed in Part I of this chapter.

Transfers required by OHA is mandatory for the resident.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, OHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

OHA Policy

When a non-accessible unit becomes available, OHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. OHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

12-II.C. OCCUPANCY STANDARDS TRANSFERS

OHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or under-occupied according to OHA policy [24 CFR 960.257(a)(4)]. On some occasions, OHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is under-occupied, to prevent vacancies. The public housing lease must include the resident's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

OHA Policy

OHA may establish a transfer waitlist for all residents that are under-occupied and/or overcrowded. Families will be placed on the transfer list by OHA when the family size has changed and the family is now too large (overcrowded) or too small (under-occupied) for the unit occupied. OHA may transfer a family in accordance with the Transfer Processing policy discussed in this chapter.

For purposes of the transfer policy, overcrowded and under-occupied are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Under-occupied: the family no longer qualifies for the bedroom size in which they are living based on OHA's occupancy standards as described in Section 5-I.B.

OHA may also transfer a family who was initially placed in a unit in which the family was under-occupied to a unit of an appropriate size based on OHA's occupancy standards, when OHA determines there is a need for the transfer.

OHA may elect not to transfer an under-occupied family in order to prevent vacancies. A family that is required to move because of family size will be advised by OHA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards in accordance with the policies in Section 5-I.C. maybe required to transfer if it is necessary to comply with the approved exception.

12-II.D. DEMOLITION, DISPOSITION, REVITALIZATIONS, OR REHABILITATION TRANSFERS

These transfers permit OHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

OHA Policy

OHA will transfer a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished.

OHA will transfer families in accordance with each project's relocation plan. The relocation may include moving to a 3rd party public housing or PBV unit.

12-II.E. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

An OHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, OHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF OHA REQUIRED TRANSFER

Residents will be required to bear the cost of moves to make an accessible unit available and moves due to occupancy standard transfers.

OHA will bear the reasonable costs of transfers that OHA requires for demolition, disposition, revitalization, or renovation.

The reasonable cost of transfers includes the cost of packing, moving, and unloading. OHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, OHA will collect information from companies in the community that provide these services.

If the tenant elects to move their belongings, OHA may reimburse the family for eligible out-of-pocket moving expenses up to OHA's established moving allowance.

Exceptions to this policy must be approved by the executive director or designee.

.

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW

HUD provides OHA with discretion to consider transfer requests from residents. The only requests that OHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of OHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by OHA.

Some transfers that are requested by residents should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT-REQUESTED TRANSFERS

OHA Policy

The types of requests for transfers that OHA will consider are limited to requests to alleviate a serious or life threatening condition, a threat of physical harm or criminal activity, VAWA, reasonable accommodation, and a different unit size as long as the family qualifies for the unit according to OHA's occupancy standards. No other transfer requests will be considered by OHA.

OHA will consider the following reasons for the transfer request as high priority:

- Verified medical problems of a serious or life-threatening nature
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at OHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may also be established through documentation outlined in section 16-VII.D, or by any proof accepted by OHA.

.

- A reasonable accommodation.
- Change in unit size due to severe overcrowding

OHA will consider all transfer requests due to occupancy standards as low priority except in the case of severe overcrowding

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer

REGULAR PRIORITY INTER-PROGRAM AND INTER-PORTFOLIO TRANSFER POLICY

Under MTW authority OHA may standardize the transfer policy to allow public housing residents with at least two years of residency to request a transfer to the Section 8 PBV or HCV programs, if there are PBV units or HCV available and the resident is eligible for the relevant program. OHA may also allow participants of local, non-traditional programs to request a transfer to the public housing program provided that the family has met the program guidelines specified in the local program. This option is available up to 10% of the total public housing units. OHA will maintain a transfer request waitlist. The decision to open and close the transfer list is at the discretion of OHA.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, OHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

OHA Policy

Except where reasonable accommodation and VAWA is being requested, OHA will only consider transfer requests from residents that meet the following good record requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Does not owe back rent or other charges, and does not have a pattern of late payment
- Does not have any housekeeping lease violations or history of damaging property
- Can obtain utilities turned on in the name of the head of household (applicable only to properties with resident-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement above may be made when it is to OHA's advantage to make the transfer. Exceptions may also be made when OHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation

12-III.D. SECURITY DEPOSITS

OHA Policy

When a family transfers from one OHA managed public housing unit to another OHA managed public housing unit, OHA will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF RESIDENT REQUESTED TRANSFERS

OHA Policy

The resident will bear all of the costs of transfer requested by the resident. However, in cases of documented financial hardship, OHA will consider assuming the transfer costs when the transfer is done as a reasonable accommodation. The definition of financial hardship for purposes of this section will be as that term is defined in section 6-IIIB of the ACOP.

12-III.F. HANDLING OF REQUESTS

OHA Policy

Residents requesting a transfer to another unit, development, or program will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, OHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, OHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

OHA will respond by approving the transfer, by denying the transfer, or by requiring more information or documentation from the family. If the transfer request is approved the family may be placed on the transfer waitlist.

If the family does not meet the eligibility to transfer requirements under Section 12-III.C., OHA may deny the request for transfer.

OHA will respond within fifteen (15) business days of the submission of the family's request. If OHA denies the request for transfer, the family will be informed of its grievance rights. See Chapter 14 for grievance policy.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

The decision as to when a transfer shall take place is at the sole discretion of OHA. OHA will evaluate considerations such as the number of families on OHA's site-based waiting lists, total number and bedroom size of vacant units, fiscal impact, and OHA's ability to continue to serve eligible residents. .

OHA will maintain a transfer list and procedures that determine order and priority of processing transfers.

Emergency transfers due to unit conditions will not automatically go on the transfer list. Emergency transfers will be handled in compliance with Chapter 12 Part A Emergency Transfers. .

With the approval of the Executive Director or designee, OHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow OHA to meet the demolition or renovation schedule.

Emergency and high priority transfers will take precedence over site-based waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

The provisions listed above are to be used as a guide to insure fair and impartial means of assigning units for transfers.

Residents who are required to be transferred for the following reasons shall be given up to two offers(not including rejection for acceptable justification as outlined in sections 12-IV.B) depending on the availability of unit with the qualified bedroom size:

- An emergency;
- Transfer to a unit that reasonably accommodates a family member's disability; and

Refusal to accept a transfer by any resident who may be required to move in compliance with occupancy standards contained in Chapter 5 or because their dwelling unit is not habitable shall be grounds for termination of their lease.

OHA Policy

Residents that are grossly over-housed or under-housed will receive one offer of a transfer.

When the transfer is required by OHA, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

When the unit transfer has been granted due to an approved reasonable accommodation request and the unit offered is rejected, OHA may request an "interactive meeting" to allow the resident to state the reasons for rejecting the unit offered and explain the nexus between their approved reasonable accommodation request and the need for an alternative unit. If OHA determines that there is no nexus for the alternative unit the resident will be given another opportunity to accept the unit offered or remain in the current unit. OHA will document the outcome of the meeting and provide a written summary to the resident and place a copy in the resident's file.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

OHA Policy

Good cause for refusal of a unit offer includes reasons related to health, disability, proximity to work, school, and childcare (for those working or going to school).

Refusals due to location alone do not qualify for good cause exemption.

OHA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

OHA Policy

If subject to deconcentration requirements, OHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the EIR will be offered a unit in a development that is below the EIR, and vice versa, to achieve OHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

CHAPTER 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. OHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify when termination of the lease is mandatory by OHA.

When determining OHA policy on terminations of the lease, OHA must consider state and local landlord-tenant laws.in the area where OHA is located. , Such laws could vary from one location to another and these variances may be either more or less restrictive than federal law or HUD regulations.

This chapter presents the policies that govern both the family's and OHA's termination of the lease voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by OHA. It is presented in four parts:

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

Part II: Termination by OHA - Mandatory. This part describes circumstances when termination of the lease by OHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

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

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and OHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or sent by pre-paid first-class mail, properly addressed.

OHA Policy

If a family desires to move and terminate their tenancy, they must give at least 30 calendar days' advance written notice to OHA of their intent to vacate. If the tenant vacates prior to the end of the thirty (30) days, they will be responsible for rent through the end of the notice period or until the unit is re-rented, whichever occurs first.

The notice of lease termination must be signed by the head of household, spouse, or co- head.

PART II: TERMINATION BY OHA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. OHA must establish policies for termination of the lease in these cases where termination is optional for OHA.

For those tenant actions or failures to act where HUD requires termination, OHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires OHA to terminate the lease.

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

OHA must terminate the lease if any family member fails to sign and submit any consent form she/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

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

OHA must terminate the lease if (1) a family fails to submit required documentation within the required time frame concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by OHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS[24 CFR 5.218(c) and 24 CFR 960.259(a)(3), Notice PIH 2012-10]

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

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

OHA Policy

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

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

OHA must terminate the lease if the family fails to accept OHA's offer of a lease revision to an existing lease, provided OHA has done the following:

- The revision is on a form adopted by OHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and the Resident Advisory Board and their opportunity to present comments.
- OHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- OHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to OHA policies for offering lease revisions.

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

OHA must immediately terminate the lease if OHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

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

Should a OHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, OHA must immediately terminate assistance for the household member.
In this situation, OHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, OHA must terminate assistance for the household.

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

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

13-II.I. DEATH OF SOLE FAMILY MEMBER [NOTICE PIH 2012-10]

OHA must immediately terminate the lease following the death of the sole family member.

PART III: TERMINATION BY OHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring OHA to terminate the lease under the circumstances described in Part II, HUD requires OHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require OHA to terminate for such violations in all cases. OHA has the discretion to consider circumstances surrounding the violation or in applicable situations OHA may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes OHA to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. OHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

In the development of the terms of the lease, OHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords OHA wide discretion in some areas, a broad range of policies could be acceptable. OHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

OHA may consider alternatives to termination and must establish policies describing the criteria OHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps OHA must take when terminating a family's lease.

.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5), Notice PIH 2015-19]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations..

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

- *Affiliated individual is defined in section 16-VII.B.*
- *Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- *Criminal Record* means any record or report compiled by a local, state, or federal law enforcement agency containing information related to a person's involvement in criminal activity. These records include, but are not limited to police reports, arrest reports, conviction records, or other information maintained by law enforcement through a database.
- *Criminal Conviction* Record means a record obtained from the California Law Enforcement Telecommunication System (CLETS) of the National Crime Information Center (NCIC) which contains criminal conviction information.
- *Dating violence is defined in section 16-VII.B.*
- *Domestic violence is defined in section 16-VII.B*
- *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
- *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.
- *Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- *Household* means the family and an OHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].
- *Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.
- *Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- *Prohibited tobacco products* are defined as products requiring the ignition of tobacco, such as (but not limited to) cigarettes, cigars, pipes, hookahs, water pipes, as well as Electronic Nicotine Delivery System (ENDS) such as, but not limited to, e-cigarettes, personal vaporizers, vape pens, e-cigars, e-hookahs, and vaping

devices.

- *Restricted areas* are public housing dwelling units (except those in a mixed-finance project), public housing administrative office buildings, public housing community rooms or community facilities, public housing day care centers and laundry rooms, and all outdoor areas up to 25 feet from the buildings or units for which this policy is applicable.
- *Sexual assault is defined in section 16-VII.B.*
- *Stalking is defined in section 16-VII.B.*

- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime on and/or about the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

OHA Policy

OHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

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

While OHA may not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

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

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

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

OHA Policy

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

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

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

While OHA may not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

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

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including OHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

OHA Policy

OHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, OHA employees, contractors, or by persons residing in the immediate vicinity of the premises.

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

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

OHA may not base a determination that a household engaged in criminal activity warranting termination of assistance or eviction on a record of arrest(s).

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

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

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

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

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

While OHA may not base a determination that an applicant or household engaged in criminal activity warranting denial, termination, or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity.

In making its decision to terminate the lease, OHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of

such alternatives and factors, OHA may, on a case-by-case basis, choose not to terminate the lease.

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

OHA will terminate the lease if it determines that a household member has furnished false or misleading information concerning illegal drug use or alcohol abuse

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

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

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f), Instituting Smoke-Free Public Housing Rule FR-5597-F-03]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

OHA Policy

OHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12-month period shall constitute a repeated late payment as articulated in section 8(A)(5) of OHA rental agreement.

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- Not to provide accommodations for boarders or lodgers
- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose
- To abide by necessary and reasonable regulations promulgated by OHA for the benefit and well-being of the housing project and the tenants, which shall be posted in the project office and incorporated by reference in the lease
- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety
- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition
- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

Any smoking of prohibited tobacco products in any units covered by 24 CFR 965, subpart G, in any restricted areas, as defined by 24 CFR 966.656(a), or in other outdoor areas that OHA has designated as smoke-free.

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

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

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

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

HUD regulations state that OHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit OHA to only those examples. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits OHA from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such violence as provided in the regulations [24 CFR 5.2005(c)(1)].

OHA Policy

OHA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violates a condition of probation or parole imposed under federal or state law

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for OHA to make determinations with respect to rent, eligibility and the appropriateness of dwelling size that may include annual and interim recertification and any other OHA required inspections

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

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

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

Failure to abide by the provisions of OHA pet policy

Failure to comply with any material provision of an OHA Use of Space License Agreement pertaining to temporary relocation

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

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

If a household member has engaged in or threatened violent, criminal, or abusive behavior toward OHA personnel or contractors.

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

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

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

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

It is reasonable that the family may be absent from the public housing unit for brief periods. However, OHA has a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

OHA Policy

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

The family must promptly notify OHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case, *promptly* means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, OHA will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, OHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit.

OHA Policy

OHA will consider a unit to be abandoned when a resident has both fallen behind in rent and has clearly indicated by words or action an intention not to continue living in the unit. If necessary, OHA will secure the unit immediately to prevent vandalism and other criminal activity

When a unit has been abandoned, OHA will comply with Code of Civil Procedure sections 1980 *et seq*. in disposition of any property left at the rental dwelling.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes OHA to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, OHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require OHA to evict over-income residents, but rather gives OHA the discretion to do so thereby making units available for applicants who are income-eligible.

OHA Policy

OHA will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse, HUD provides that OHA may consider exclusion of the culpable household member. Such an alternative can be used, by OHA, for any other reason where such a solution appears viable.

Additionally, under the Violence against Women Reauthorization Act of 2013, OHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

OHA Policy

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

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

Repayment of Family Debts

OHA Policy

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

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

If OHA has grounds to terminate a tenancy it is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

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

OHA Policy

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

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

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

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that OHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

OHA Policy

OHA will consider the following circumstances before deciding whether to terminate the lease for any of the HUD-required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents safety or peaceful and quiet enjoyment property
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities or (as discussed further in section 13-II.F) a victim of domestic violence, dating violence, sexual assault or stalking."
- The effects that the eviction will have on other family members who were not involved in the action or failure to act

- The effect on the community of the termination, or of OHA's failure to terminate the tenancy
- The effect of OHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

While OHA may not base a determination that a household engaged in criminal activity warranting termination or eviction on an arrest record, it may use an arrest to trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, OHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. OHA may also consider:

- Any statements made by witnesses or the participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

For-Cause Eviction Guidelines

The For-Cause Eviction Guidelines are intended for use by OHA's Property Management staff to the implement existing OHA occupancy policies regarding tenant evictions for causes such as drug-related, nuisance, weapons-related and/or violent criminal activities. These guidelines apply to criminal activities that threaten the health, safety or right to peaceful enjoyment of the premises by other residents...

These guidelines are consistent with the OHA's commitment to make every reasonable effort to promote safer public housing communities and assure that residents are given legitimate opportunities for successful program participation.

The decision whether to initiate proceedings to terminate tenancy in all For-Cause evictions remains a matter of judgment. Staff of OHA will consider all circumstances with each individual case.

The Deputy Executive Director for the Office of Property Operations or his designee is required to review all For-Cause Evictions.

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

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

OHA Policy

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

For this purpose OHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program

Reasonable Accommodation [24 CFR 966.7]

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

OHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, OHA will determine whether the behavior is related to the disability. If so, upon the family's request, OHA will determine whether alternative measures are appropriate as a reasonable accommodation. OHA will consider only accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

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

OHA's eviction actions are consistent with fair housing and equal opportunity provisions of 24CFR 5.105.

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

This section addresses the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements and OHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this policy, where definitions of key VAWA terms are also located.

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

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1) , FR Notice 8/6/13].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

VAWA prohibits a OHA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit the authority of OHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as OHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

- VAWA does not limit the authority of OHA to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault or stalking if OHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a OHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

OHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, OHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or a tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest OHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

OHA Policy

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

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

Terminating or Evicting a Perpetrator Domestic Violence

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives OHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on OHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming OHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if OHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that OHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07].

OHA Policy

OHA will bifurcate a family's lease and terminate the tenancy of a family member if OHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, OHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to OHA by the victim in accordance with this section and section 16-VII.D. OHA will also consider the factors in section 13.III.E Upon such consideration, OHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If OHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, OHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, OHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

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

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

OHA Policy

OHA may conduct criminal records checks when it has come to the attention of OHA, 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. A In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

All criminal record checks will be conducted in conjunction with a current criminal investigation, and information will be provided to staff on a "needs-to-know, right-to-know" basis.

If the records check is not tied to a current investigation, OHA may obtain an individual's criminal record from the Alameda County Consolidated Criminal Records Office (CCR), 15001 Foothill Blvd, San Leandro, CA. 94578, and (510) 667-3190.

In order to obtain such information, all adult household members may be required to sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

OHA will not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if OHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases, if OHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, OHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

OHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, OHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, If the household requests a copy of their summary criminal history record to dispute allegations, the household shall be directed to Alameda County Consolidated Criminal Records Office (CCR),

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

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

OHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

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

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

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine OHA documents directly relevant to the termination or eviction. If OHA does not make the documents available for examination upon request by the tenant, OHA may not proceed with the eviction [24 CFR 996.4(m)].

When OHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with OHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed. When OHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by OHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of OHA, or for a drug-related criminal activity on or off the premises.

OHA Policy

OHA will serve all notices of lease termination in compliance with Code of Civil Procedure section 1162.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Reauthorization Act of 2013 (VAWA) for victims of domestic violence, dating violence, sexual assault, or stalking (see section 16-VII.C). OHA will also include a copy of the form HUD-50066 and a notice of VAWA rights to accompany the termination notice. Any tenant who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

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

OHA must give written notice of lease termination of:

- Fourteen (14) calendar days in the case of failure to pay rent
- Three (3) calendar days notice considering the seriousness of the situation (but not to exceed 30 calendar days)
- If the health or safety of other residents, OHA employees, contractors, or persons residing in the immediate vicinity of the premises is threatened
- If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
- If any member of the household has been convicted of a felony
- Thirty (30) calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

OHA Policy

OHA will give written notice of 14 calendar days for nonpayment of rent. Additionally, OHA will give written notice of 3 calendar days for drug-related, weapons-related; violent criminal activity or any other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, OHA staff, contractors, or persons residing in the immediate vicinity of the premises; or if any member of the household has been convicted of a felony. For all other lease terminations, OHA will give 30 day's written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When OHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

OHA Policy

If, after receiving a notice of initial noncompliance, the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family

will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

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

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for pro-ration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with OHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for OHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. OHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

OHA Policy

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

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

OHA may not proceed with an eviction action if OHA has not made available the documents to be used in the case against the family nor afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When OHA evicts an individual or family for criminal activity, including drug-related criminal activity, OHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

OHA Policy

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

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including ates, names of conference participants, and conclusions

APPENDIX 13.1 OHA FOR-CAUSE EVICTION GUIDELINES

For-Cause Eviction Guidelines

The For-Cause Eviction Guidelines are intended for use by OHA's staff in the implementation of existing OHA occupancy policies regarding tenant evictions for causes such as drug-related, weapons-related and/or violent criminal activities that threatens the health and safety or right to peaceful enjoyment of the premises by other tenants. These guidelines do not apply to cases that involve only the failure to pay rent or maintenance charges.

The guidelines are consistent with OHA's commitment to make every reasonable effort to promote safer public housing communities and assure that residents are given legitimate opportunities for successful program participation.

The decision whether to initiate proceedings to terminate tenancy in all For-Cause Evictions remains a matter of judgment. Staff of OHA will consider all circumstances with each individual case.

The Deputy Executive Director for the Office of Property Operations or his/her designee is required to review all For-Cause Evictions.

Objective

The guidelines are used by OHA staff to meet a series of objectives in weighing the variety of factors and considerations involved in responding to a lease violation. When in conflict, OHA will attempt to meet the objectives in order of importance. The order of importance of the objectives is as follows:

- Protecting the residents of public housing, their neighbors, OHA staff, and others who work or visit OHA property from the negative impact and influences of drugs and other crimes
- Preventing behavior and acts that seriously damage or destroy OHA property, place such property at risk, or render it unsuitable for the purpose of providing safe and decent housing
- Preserve the tenancy and provide residents an opportunity to learn from mistakes that can be remediated.

Types of "For-Cause" Evictions

In general, lease violations that may result in "For-Cause" evictions can be divided into three areas, with the first being the most serious and the third being the least serious.

- Crime is related to use, sale or manufacture of drugs; involves a weapon; is violent; or poses an immediate threat to health and safety.
- Crime is not related to drugs, does not involve a weapon, is not violent and does not pose an immediate threat.
- Lease violation - no crime involved

Circumstances of Lease Violation

In all cases, a review is to be made of all circumstances of the event or events. Further considered is to be given to the other related issues that follow:

- Who was the person involved?
  - Head of household or Co-tenant
  - Household member
  - Guest
- Did the head of household or co-tenant know of the incidents or involvement?
- Have there been any prior incidents of a similar nature?
- Has there been any counseling or warning given to the head of household and/or co-tenant?
- Has there been any involvement of social services providers to the family?
- Would intervention by social services providers be appropriate?
- What have been the consequences for other residents in the unit and neighbors of OHA property?
- What are the likely consequences for other residents in the unit and neighbors of OHA property?

Counseling, Warning, And Supportive Services Needs Assessment

A meeting is to be held with the head or co-tenant in which the incidents and consequences are to be discussed. Following the discussion, a written summary of the discussion, including any warning and any instructions and expectations is to be sent to the head and co-tenant with copies to the tenant file along with any other appropriate documentation. If warranted by the serious nature of the incident, by the threat to other residents or neighbors, by the number of incidents, or by the history of incidents, either a three-day or thirty-day notice is to be prepared and served. Any counseling meeting described in this section does not apply to any case type except for criminal activities that threaten the health, safety or right to peaceful enjoyment of the premises by other tenants.

When determined to be appropriate, the Property Manager/Property Administrator/Assistant Property Administrator (PM/PA/APA) will coordinate with the Resident & Community Services Department to arrange the appropriate supportive services in response to the family's needs.

Types of Notices Three (3)-Day Notice

Three (3)-Day Notices are warranted in the event of drug-related, weapon-related, and/or violent criminal acts, or lease violations which pose an immediate threat to the health and safety of other residents, OHA staff or surrounding neighbors, committed by the Head of Household or Co-tenant, which are substantiated with verifiable evidence.

Thirty (30)-Day Notice

Thirty (30)-Day Notices are appropriate for all other matters as described above when eviction is warranted.

File Review and Approval

The Property Management personnel prepares a case outline in chronological order.

The Assistant Director consults with the Property Management personnel and will review all relevant information and forward the file to the Staff Attorney. .

The Staff Attorney will meet with Director of Property Management and make recommendation to the Deputy Executive Director

The Deputy Executive Director or designee reviews all recommendations regarding For- Cause evictions. Only after receiving the Deputy Executive Director written approval shall such cases be filed. The Staff Attorney will handle all legal inquiries pertaining to unlawful detainer matters.

Executive Director Review

In the event that the Deputy Executive Director and his designee and the Authority's legal representative disagree on the course of action regarding a particular case, the file will be forwarded to the Executive Director for final decision.

CHAPTER 14: GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to OHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Non-citizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

Part III: Grievance Policy for Public Housing Residents. This part outlines the requirements and policy for handling grievances for public housing residents.

Note that this chapter is not OHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that govern the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When OHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses OHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded to OHA residents. [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

OHA will offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission.

Informal reviews are not required for the following circumstances [24 CFR 982.554(c)]:

- Discretionary administrative determinations by OHA
- General policy issues or class grievances
- A determination of the family unit size under OHA subsidy standards
- Failure to respond to waiting lists update requests in writing within the specified timeframes

Notice of Denial [24 CFR 960.208(a)]

OHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for OHA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, OHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-50066) in accordance with the Violence against Women Reauthorization Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.F. for details concerning this requirement.

Scheduling an Informal Hearing

OHA Policy

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

OHA must schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

OHA Policy

The informal hearing will be conducted by a person or persons designated by the Department Director. The designee must be a person other than the person who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of OHA.

The person conducting the hearing will make the determination whether the admission should be granted or denied.

The person conducting the informal hearing will make a recommendation to grant or deny admission and for denials OHA may elect to have the recommendation reviewed by the Executive Director or a designee for final determination on admission.

Informal Hearing Decision [PH Occ GB, p. 58]

OHA Policy

OHA will notify the applicant of OHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, OHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in OHA policy, then the decision to deny assistance will be overturned. (See Chapter 3 for a detailed discussion of the grounds for applicant denial.)
- The validity of the evidence that OHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, OHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, OHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

OHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume. If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and OHA must consider such accommodations. OHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. (See Chapter 2 for more detail pertaining to reasonable accommodation requests.)

PART II: INFORMAL HEARINGS WITH REGARD TO NON-CITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while OHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or OHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for non-citizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with OHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When OHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, OHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide OHA with a copy of the written request for appeal and proof of mailing.

OHA Policy

OHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide OHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to OHA, of its decision. When the USCIS notifies OHA of the decision, OHA must notify the family of its right to request an informal hearing.

OHA Policy

OHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that OHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of OHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

OHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of OHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

OHA Policy

The family must request discovery of OHA documents no later than 48 hours prior to the Informal hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by OHA, and to confront and cross-examine all witnesses on whose testimony or information OHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or OHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, OHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. OHA may, but is not required to provide a transcript of the hearing.

OHA Policy

OHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

OHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

OHA must retain for a minimum of 5 years the following documents that may have been submitted to OHA by the family, or provided to OHA as part of the USCIS appeal or OHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that OHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of OHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

OHA must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any OHA action or failure to act involving the lease or OHA policies which adversely affect their rights, duties, welfare, or status. OHA may establish an expedited grievance procedure as defined in 24 CFR 966.53. OHA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

OHA grievance procedure must be included in, or incorporated by reference in, the lease.

OHA Policy

OHA grievance procedure will be incorporated by reference in the resident lease. OHA must provide at least 30 days' notice to residents and the Resident Advisory Board setting forth proposed changes to OHA grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by OHA before adoption of any grievance procedure changes by OHA.

Residents and the Resident Advisory Board will have 30 calendar days from the date they are notified by OHA of any proposed changes in OHA grievance procedure, to submit written comments to OHA.

OHA must furnish a copy of the grievance procedure to each resident and to the Resident Advisory Board.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)] Section 15.0 Grievance Policy

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to OHA action or failure to act in accordance with the individual resident's lease or OHA regulations which adversely affect the individual resident's rights, duties, welfare or status
- **Complainant** – any resident whose grievance is presented to OHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
    a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
    b. Right of the resident to be represented by counsel
    c. Opportunity for the resident to refute the evidence presented by OHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have
    d. A decision on the merits
- **Expedited grievance –** a procedure e established by OHA for any grievance concerning a termination of tenancy or eviction that involves:
    1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of OHA's public housing premises by other residents or employees of OHA; or
    2) Any drug-related or violent criminal activity on or off such premises.
- **Hearing Officer**– an impartial person or persons selected by OHA, 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.
- **Resident** – the adult person (or persons) (other than a live-in aide)
    a. Who resides in the unit, and who executed the lease with OHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
    b. Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of OHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to OHA. It is not applicable to disputes between residents not involving OHA. Class grievances are not subject to the grievance procedure nor is said grievance procedure to be used as a forum for initiating or negotiating policy changes of OHA.

If HUD has issued a due process determination, OHA may exclude from OHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of OHA
- Any violent or drug-related criminal activity on or off such premises

OHA may evict through the local judicial eviction procedures. In this case, OHA is not required to provide the opportunity for a hearing under OHA's grievance procedure as described above.

OHA Policy

OHA is located in a HUD-declared due process state. Therefore, OHA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of OHA, or for violent or drug-related criminal activity on or off the premises, or criminal activity.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

Any grievance shall be personally presented within the time specified by written notice from OHA, or, if no such time is specified, within thirty (30) days of an OHA action or failure to act giving rise to the dispute. The grievance must be presented in writing on a pre-printed form supplied by OHA, or in any other written form chosen by the resident, or orally. The presentation of the grievance shall be made to OHA district office with jurisdiction for the apartment in which the grievant resides. An attempt will be made to settle the grievance informally, by discussion and without a hearing. A summary of the discussion shall be prepared within five (5) work days. One copy shall be given to the grievant and one retained in OHA's resident file. The summary shall specify:

- The names of the participants
- Dates of meeting
- The nature of the proposed disposition of the complaint and the specific reasons,
- The procedures by which a grievant can obtain a hearing if the grievant is not satisfied with the informal settlement of grievance..

OHA Policy

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, OHA may request documentation of the "good cause" prior to rescheduling the hearing. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a resident fails to attend the scheduled meeting, tand was unable to reschedule the hearing in advance due to the nature of the conflict, the tenant must contact OHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. OHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

OHA Policy

The resident must submit a written request for a grievance hearing to OHA within 10 business days of the resident's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, OHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest OHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and OHA and held before a hearing officer. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate OHA official.

OHA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and OHA.

OHA may wish to permit the resident to request to reschedule a hearing for good cause.

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, OHA may request documentation of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person appointed by the Executive Director or designee, other than the person who made or approved OHA action under review, or a subordinate of such person. OHA must describe their policies for selection of a hearing officer in their lease.

OHA Policy

OHA grievance hearings will be conducted by a single hearing officer and not a panel. A Hearing Officer will be designated by the Executive Director or the Deputy Executive Director for Public Housing. Eligible OHA Hearing Officers will include qualified current staff persons, former OHA employees, professional arbitrators, or personnel from other OHA who have received training on hearing procedures.

Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

OHA must include their policies regarding the hearing officer selection process in the tenant lease form. [24 CFR 966.4].

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any OHA documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such documents. If OHA does not make the document available for examination upon request by the complainant, OHA may not rely on such document at the grievance hearing.

  OHA Policy

  The family must request discovery of OHA documents no later than 48 hours prior to the grievance hearing.

  - The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf.

  Hearings may be attended by the following applicable persons: OHA representative(s) and any witnesses for OHA, the resident, and any witnesses for the resident; the resident's counsel or other representative, and; any other person approved by OHA as a reasonable accommodation for a person with a disability

  - The right to a private hearing unless the complainant requests a public hearing.
  - The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by OHA or project management, and to confront and cross- examine all witnesses upon whose testimony or information OHA or project management relies.
  - A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or OHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period no more than five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and OHA must be notified of the determination by the hearing officer, provided that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest OHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

OHA Policy

If the resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the resident appears within 30 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact OHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(d) (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter OHA must sustain the burden of justifying OHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer/panel. OHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

OHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to OHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols, or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If OHA fails to comply with the discovery requirements (providing the resident with the opportunity to examine OHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of OHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or OHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

OHA Policy

OHA will record all Informal Hearings. The audio tape is available upon request.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

OHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident that is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of OHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g)

OHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.H. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and OHA. OHA must retain a copy of the decision in the resident's folder. OHA must maintain a log of all hearing officer decisions and make that log available upon request of a prospective complainant, his/her representative, or the hearing officer [24 CFR 966.57(a)].

OHA Policy

In rendering a decision, the hearing officer will consider the following matters:

OHA Notice to the Family: The hearing officer will determine if the reasons for OHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with OHA policy.

OHA Evidence to Support OHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support OHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and OHA policies. If the grounds for termination are not specified in the regulations or in compliance with OHA policies, then the decision of OHA will be overturned.

The hearing officer will issue a written decision to the family and OHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the

hearing Name of the

hearing officer

Name of OHA

representative(s) Name of

family representative (if any)

Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary

of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold OHA's decision.

Order: The hearing report will include a statement of whether OHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct OHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct OHA to restore the family's status.

Procedures for Further Hearing

OHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of OHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer shall be binding on OHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless OHA Board of Commissioners determines ,, that:

- The grievance does not concern OHA action or failure to act in accordance with or involving the complainant's lease on OHA regulations, which adversely affect the complainant's rights, duties, welfare or status;
- The decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and OHA;

OHA Policy

When OHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the Executive Director or his or her designee within 10 business days of the date of the hearing officer's decision. If the Executive Director or his or her designee decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer, or the Executive Director or his or her designee in favor of OHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court. [24 CFR 966.57(c)].

Chapter 15 - PROGRAM INTEGRITY

INTRODUCTION

OHA is committed to ensuring that funds made available to OHA is spent in accordance with HUD requirements.

This chapter covers HUD and OHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents OHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures OHA must and may take when errors or program abuses are found.

PART I - PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

OHA Policy

OHA anticipates that the vast majority of families and OHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that OHA's program is administered effectively and according to the highest ethical and legal standards, OHA will employ a variety of techniques to make sure that both errors and intentional program abuse are rare.

OHA will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

OHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. OHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

OHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

OHA staff will be required to review and explain the contents of all HUD- and OHA-required forms prior to requesting family member signatures.

OHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key OHA forms and form letters that request information from a family member.

OHA will provide each OHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, OHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

OHA Policy

OHA will employ a variety of methods to detect errors and program abuse,

including: OHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

OHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all OHA that expend $500,000 or more in federal awards annually to have an independent audit ("IPA"). In addition, HUD conducts periodic on-site and automated monitoring of OHA activities and notifies OHA of errors and potential cases of program abuse.

OHA Policy

OHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of OHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

OHA Policy

OHA will encourage staff, residents and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When OHA Will Investigate

OHA Policy

OHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for OHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

OHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

OHA may investigate possible instances of error or abuse using all available OHA and public records. If necessary, OHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

OHA Policy

OHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation, OHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed OHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether OHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

OHA Policy

In the case of family-caused errors or program abuse, OHA will take into consideration:

(1) the seriousness of the offense and the extent of participation or culpability of individual family members,
(2) any special circumstances surrounding the case,
(3) any mitigating circumstances related to the disability of a family member,
(4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

OHA Policy

OHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include

(1) a description of the error or program abuse,

(2) the basis on which OHA determined the error or program abuses,

(3) the remedies to be employed, and

(4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect resident rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, OHA must promptly correct the resident rent and any utility reimbursement prospectively.

OHA Policy

Increases in the resident rent will be implemented only after the family has received 30 days notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse OHA or OHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members. An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows OHA to use incorrect information provided by a third party. Refer 15- I C Notice and Appeals.

Family Reimbursement to OHA

OHA Policy

In the case of family-caused errors or program abuse, the family will be required torepay any amounts of rent underpaid. OHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, OHA will terminate the family's lease in accordance with the policies in Chapter 13.

OHA Reimbursement to Family

OHA Policy

OHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to OHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to OHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

OHA Policy

Any of the following will be considered evidence of family program abuse:
Offering bribes or illegal gratuities to OHA Board of Commissioners, employees, contractors, or other OHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to OHA on the family's behalf
Use of a false name or the use of falsified, forged, or altered documents
Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

OHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family OHA may, at its discretion, impose any of the following remedies.

- OHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to OHA).
- OHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- OHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- OHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. OHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of OHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of an OHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in OHA personnel policy.

OHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to OHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by OHA staff.

OHA Reimbursement to Family

OHA Policy

OHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

OHA Policy

Any of the following will be considered evidence of program abuse by OHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to OHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of OHA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program

- Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

OHA Policy

When OHA determines that program abuse by a family or an OHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, OHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General ("OIG").

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

OHA that enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that OHA recovers [Notice PIH 2005-7 (HA)].

If OHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through OHA's grievance process.

CHAPTER 16: PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of OHA-furnished utilities.

Part II: Establishing Flat. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which OHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System ("OHA"). This part describes OHA indicators, how OHA is scored under OHA, and how those scores affect OHA.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies OHA will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes OHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault and stalking; and maintaining the confidentiality of information obtained from victims.

Part VIII: Conflict of Interest Policy. This part describes OHA's conflict of interest policies in connection with all OHA administered Section 8 programs.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

OHA must establish allowances for OHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

OHA must also establish surcharges for excess consumption of OHA-furnished utilities [24 CFR 965.506].

OHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

OHA must establish separate allowances for each utility and for each category of dwelling units OHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of OHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy- conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if OHA does not furnish a range, the family must be granted a utility allowance for the range they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and setting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy use [PH Occ GB, p. 138]. Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance about establishing utility allowances.

Utility Allowance Revisions [24 CFR 965.507]

OHA may use its current MTW utility allowance schedule at scheduled reexaminations.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

OHA Policy

Unless OHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after a new allowance is adopted, up to and including any utility allowance schedule developed under MTW authority.

For families on a biennial/triennial reexamination schedule, revised utility allowances will be applied on the earlier of the first anniversary date or first reexamination date following the adoption of the revised utility allowance schedule

16-I.C. SURCHARGES FOR OHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for OHA-furnished utilities where check meters have been installed, OHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on OHA's average utility rate. The basis for calculating the surcharges must be described in OHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in OHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by OHA-furnished utilities where check meters have not been installed, OHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of OHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of OHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to OHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

OHA Policy

OHA does not have OHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

OHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where OHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, OHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Public housing flat rents are needed to prorate assistance for a mixed family [24 CFR 5.520(d)]. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how OHA establishes and updates flat rents . Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rents for mixed families are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 60.253(b) and Notice PIH 2015-139(HA)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market.

In accordance with Notice PIH 2015-13 (HA), OHA will set the flat rent at no less than 80 percent of the applicable Fair Market Rent (FMR) adjusted, if necessary, to account for reasonable and applicable utility costs. The new flat rent will apply at the time of admission to all new residents and at the time of transfer from one OHA unit to another. The new flat rent will also be offered to existing residents at their next recertification.

OHA will comply with the requirements to make a regularflat rent offer, and to provide each household with sufficient information to make an informed choice.

OHA is prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, OHA must prorate assistance. Public housing flat rents are needed in order to calculate the tenant rent for a mixed family. [24 CFR 5.520(d)]

Review of Flat Rents

OHA must ensure that flat rents continue to reflect rent values as defined in [24 CFR 960.253(b)] and PIH Notice 2014-12.

OHA will determine flat rents using a rent reasonableness methodology, as defined in 24 CFR Part 960.253(b), OHA will revise the flat rent amount from year to year based on the findings of a rent reasonableness analysis and changes to the FMR.

Such a reasonable method may consider:

- Location
- Quality

- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by OHA
- Utilities provided by OHA

OHA must update the flat rent schedule from year to year based on the rent reasonableness study and any increases to the FMR. If the FMR decreases from the previous year, OHA is not required to lower flat rent to 80 percent of the FMR. Should OHA determine through the rent reasonableness methodology that reasonable rents would be less than 60 percent of the applicable FMR, OHA may choose to complete a rent reasonableness study once every three years, rather than annually.

Posting of Flat Rents

OHA Policy
OHA will publicly post the current Flat Rent Schedule on its web site.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]
OHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by OHA in accordance with this method.

PART III: FAMILY DEBTS TO OHA

16-III.A. OVERVIEW

This part describes OHA's policies for recovery of monies that have been underpaid by families.

OHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, OHA holds the family liable to return any underpayments to OHA. OHA will enter into repayment agreements in accordance with the policies contained in

this part as a means to recover overpayments. The term *repayment agreement* refers to a formal document signed by a tenant and provided to OHA in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to OHA, OHA will use other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suits
- State income tax set-off program

16-III.B. REPAYMENT POLICY Family Debts to OHA

OHA Policy

Any amount due to OHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, OHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, OHA will terminate the family's tenancy in accordance with the policies in Chapter 13. OHA will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

OHA Policy

Prior to or concurrent to the execution of a repayment agreement, the family must pay 25 percent of the balance owed to OHA.

Payment Thresholds [PIH 2010-19 and 24 CFR 982.552 (c)(1)(vii)]

OHA Policy

Amounts under $1,000 must be repaid within 12 months. Amounts between $1,000 and $1,999 must be repaid within 24 months. Amounts between $2,000 and $2,999 must be repaid within 30 months. Amounts between $3,000 and $5,999 must be repaid within 36 months. Amounts between $6,000 and $8,999 must be repaid within 48 months. Amounts between $9,000 and $12,000 must be repaid within 60 months, unless stipulated otherwise in court.

Execution of the Agreement

OHA Policy

The head of household and spouse/co-head (if applicable) must sign and date the repayment agreement.

Due Dates

OHA Policy

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Any court stipulated agreement or court settlement agreement negotiated by OHA and a tenant shall supersede the policy articulated above if these types of negotiated agreements have a different payment date articulated in them.

Late or Missed Payments

OHA Policy

If a payment is not received by the end of the business day on the date due, it will be considered a breach of the repayment agreement and OHA will terminate the tenancy in accordance with the policies in Chapter 13.

Any court stipulated agreement or court settlement agreement negotiated by OHA and a tenant shall supersede the policy articulated above and this section shall not apply to these types of court agreements.

No Offer of Repayment Agreement

OHA Policy

OHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the federal or state threshold for criminal prosecution.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (OHA)

16-IV.A. OVERVIEW

The purpose of OHA is to improve the delivery of services in public housing and enhance trust in the public housing system among OHA, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

Under MTW Authority, OHA is not required to report through OHA.

16-IV.B. OHA INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of OHA indicators, the points possible under each indicator, and a brief description of each indicator. OHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of OHA's properties
Maximum Score: 30

- The objective of this indicator is to determine the level to which OHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of OHA's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in OHA's public housing portfolio.

Indicator 2: Financial condition of OHA

Maximum Score: 30

- The objective of this indicator is to measure the financial condition of OHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- OHA's financial condition is determined by measuring OHA's entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, tenant receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.

Indicator 3: Management operations of OHA Maximum Score: 30

- The objective of this indicator is to measure certain key management operations and responsibilities of OHA for the purpose of assessing OHA's management operations capabilities.
- OHA's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, OHA annual inspection of units and systems, security, and economic self-sufficiency.

Indicator 4: Resident service and satisfaction Maximum Score: 10

- The objective of this indicator is to measure the level of resident satisfaction with living conditions at OHA.
- OHA's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions OHA takes based on the results of the survey.

16-IV.C. OHA SCORING [24 CFR 902 and Subpart F]

HUD's Real Estate Assessment Center ("REAC") issues overall OHA scores, which are based on the scores of the four OHA indicators, and the components under each indicator. OHA scores translate into a designation for each OHA as high performing, standard, or troubled.

A high performer is a OHA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall OHA score of 90 or greater.

A standard performer is a OHA that has an overall OHA score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following indicators: 1, 2, or 3.

A troubled performer is a OHA that achieves an overall OHA score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect a OHA in several ways:

- High-performing OHA is eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- OHA that are standard performers may be required to submit an improvement plan to eliminate deficiencies in OHA's performance [24 CFR 902.73(a)].
- OHA with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement ("MOA") with HUD to improve OHA performance [24 CFR 902.75].
- OHA that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

OHA must post a notice of their final OHA score and status in appropriate, conspicuous, and accessible locations in its offices within two weeks of receipt of its final score and status.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

OHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, OHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

OHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

Notice PIH 2014-20 requires OHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

OHA Policy

During the term of each public housing tenancy, and for at least three years thereafter, OHA will keep documents related to a family's eligibility, tenancy, and termination.
In addition, OHA will keep the following records for at least three years:

- An application from each ineligible family and notice that the applicant is not eligibleLead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Accounts and other records supporting OHA budget and financial statements for the program
- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule
- Other records as determined by OHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

OHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

OHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized OHA staff.

OHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers ("SSN"), employer identification numbers ("EIN"), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of federal, state, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or OHA may release the information collected.

OHA Policy (pending HUD approval)

OHA may require each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign the HUD approved OHA Authorization Release Form/Privacy Act Notice form in lieu of the form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Up-front Income Verification (UIV) Records

OHA that access UIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (EIV) System OHA Security Procedures*, Version 1.2, issued January 2005.

OHA Policy

Prior to using HUD's EIV system, OHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

OHA may only disclose the criminal conviction records which OHA receives from a law enforcement agency to officers or employees of OHA, or to authorized representatives of OHA who have a job-related need to have access to the information [24 CFR 5.903(e)]. OHA must establish and implement a system of records management that ensures that any criminal record received by OHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to OHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

OHA must establish and implement a system of records management that ensures that any sex offender registration information received by OHA from a state or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to OHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by OHA other than under 24 CFR 5.905.

Medical/Disability Records

OHA is not permitted to inquire about the nature or extent of a person's disability. OHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If OHA receives a verification document that provides such information, OHA should not place this information in the tenant file. OHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault or Stalking

For requirements and OHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault or stalking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

OHA has certain responsibilities relative to children with environmental intervention blood lead levels who are living in public housing.

OHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. OHA must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

OHA Policy

OHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

OHA will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act of 2005 and 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and OHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and OHA policies are located primarily in the following sections: Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003]
As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of that individual.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
  - Any other person living in the household of that person.
- The term *stalking* means:To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
- To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

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

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

OHA adopts the following policy to help ensure that all actual and potential beneficiaries of its Public Housing are aware of their rights under VAWA.

OHA Policy

OHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA public housing program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking The definitions of *domestic violence*, *dating violence*, *sexual assault* and *stalking* provided in VAWA

An explanation of the documentation that OHA may require from an individual who claims the protections provided by VAWA A copy of form HUD-50066 or HUD-91066, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

A statement of OHA's obligation to keep confidential any information that it receives from a victim unless (a) OHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]
OHA is required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, OHA may elect to provide the same information to applicants.

OHA Policy

OHA will include information about VAWA in all notices of denial of assistance (see section 3-III.G).

OHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B). OHA will also include information about their rights under VAWA 2013 in notices of termination of assistance. and provide a copy of form HUD-50066 or HUD-91066, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking.

.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

A OHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. OHA may extend this time period at its discretion. [24 CFR 5.2007(a)]
The individual may satisfy OHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-50066 or HUD-91066, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking), which must include the name of the perpetrator, if the name is known and safe to provide.

(2) A federal, state, tribal, territorial, or local law enforcement court or administrative record.

(3) Documentation signed by the victim and a victim service provider, an attorney, a medical professional, or a mental health professional in which the professional attests under penalty of perjury to his or her belief that the victim has experienced an incident of domestic violence, dating violence, sexual assault or stalking that meets the grounds for protection under the statute.

OHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

OHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

OHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by OHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where OHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, OHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). OHA must honor any court orders issued to protect the victim or to address the distribution of property.OHA Policy

If presented with conflicting certification documents (two or more forms HUD-50066 or HUD-91066) from members of the same household, OHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

OHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

OHA Policy

If OHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, OHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a OHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as OHA may allow, OHA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to OHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence sexual assault or stalking, must be retained in confidence. This means that OHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

OHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, OHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

A current or former spouse or intimate partner of the victim

A person with whom the victim shares a child in common

A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies

Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

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

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for his or her safety or others; or
- Suffer substantial emotional distress.

PART VIII: CONFLICT OF INTEREST POLICY

16-VIII.A. OVERVIEW

- Neither OHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with any of OHA's public housing programs in which any of the following classes of persons has any interest, direct or indirect, during their tenure or for one year thereafter:

1. Any present or former member or officer of the Authority (except a participant commissioner);
2. Any employee of the Authority, or any contractor, subcontractor or agent of the Authority, who formulates policy or who influences decisions with respect to the programs (except that program participants may be hired as employees of the Authority);
3. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
4. Any member of the Congress of the United States.

16-VIII.B. EMPLOYEES WHO ARE ALSO AUTHORITY CLIENTS

An employee of OHA who is a client or who is related to a client has a responsibility to avoid any conflict of interest that might lead to unequal treatment. Therefore, the following procedural standards are to be employed in all such circumstances.

1. No employees, nor their staff if they are a Manager or Supervisor, shall handle matters related to their own cases or to the cases(s) of member(s) of their family.
2. Employees of the Office of Property Management shall be responsible for reporting to the Director of Human Resources and the Director of Property Management any potential or actual conflict of interest. If the employee is unsure whether or not a conflict of interest exists, the employee shall refer the matter to the Director of Human Resources and the Director of Property Management for a determination.

It shall be the responsibility of the Director of Property Management to ensure that any actions or decisions taken within the Office of Property Management affecting any employee's participant status or the participant status of an employee's relative are in accordance with all applicable policies and procedures. It shall be the responsibility of the Director of Housing Management to ensure that any actions or decisions taken within the Eligibility Department affecting any applicant's status or the applicant status of an employee's relative are in accordance with all applicable policies and procedures. Both Directors shall ensure that the employee or employee's relative shall neither suffer any loss of benefit nor receive any gain of benefits as a result, direct or indirect, of her/his employment at the Authority or her/his relationship to an Authority employee. As such:

1. Any time action is taken or a decision is made which affects the applicant or participant status of an Authority employee or a relative of an Authority employee in any way, all Authority paperwork must be received and signed by the appropriate Director before the action or decision becomes effective.
2. Each initial determination of eligibility and each selection to a program of an Authority employee or a relative of an Authority employee shall be forwarded from the Director of Housing Management to the Executive Office for review and final approval. A certification by the Director of Housing Management shall accompany the file to the Executive Office stating that all determinations and actions taken have been reviewed pursuant to applicable policies and procedures.

16-VIII.C. DISCLOSURE

Member of the classes listed below must disclose their interest or prospective interest to OHA and HUD as follows:

Relation to OHA	Disclosure Required	Disclosure Frequency
OHA Board Members All Executive Office Staff All Directors All Section 8 Staff All Public Housing Staff All Asset Management Staff All Eligibility Staff All MIS Staff All Finance Staff	• *CA Statement of Economic Interests*	Annually
Contractors Sub-contractors Agents of the Authority	• *CA Statement of Economic Interests* • *OHA Statement of Employee and Familial Participation in Housing Authority Programs*	Upon contract with OHA, annually thereafter Upon contract with OHA, annually thereafter

16-VIII.D. DISCIPLINARY PROCEDURES

It is the policy of OHA to operate all of its programs in an ethical manner and in such a way that no group or individual shall have an unfair advantage in the receipt of OHA's programs and services. OHA will vigorously investigate any suspected violation of its Conflict of Interest policies and will cooperate with HUD's Office of Inspector General, local and OHA police and any other appropriate bodies when conducting investigations of suspected violations. Appropriate penalties shall be determined for each individual case. Available penalties include:

a. Written reprimand;

b. Suspension;

c. Probation;

d. Demotion;

e. Termination; and

f. Criminal Prosecution.

16-VIII.E. WAIVER CONFLICT OF INTEREST PROVISIONS

The conflict of interest prohibitions detailed under this section may be waived for good cause by the HUD field office.

16-VIII.F. GIFT POLICY

The Office of Property Management utilizes OHA's Gift Policy.

OHA Policy

It is the policy of OHA to operate all of its programs in an ethical manner and in such a way that no group or individual shall have an unfair advantage in the receipt of OHA's programs and services. OHA will vigorously investigate any suspected violation of its Gift Policy and will cooperate with HUD's Office of Inspector General, local and OHA police and any other appropriate bodies when conducting investigations of suspected violations. Appropriate penalties shall be determined for each individual case. Available penalties include:

a. Written reprimand;

b. Suspension;

c. Probation;

d. Demotion;

e. Termination; and

f. Criminal Prosecution.

(Page intentionally left blank)

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General

IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 Sub-module of the PIC system) **NOFA** Notice of funding availability **OMB** Office of Management and Budget **PASS** Plan for Achieving Self-Support
PBV	**Project-based Voucher**
OHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income

TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
UPCS	Uniform Property Conditions Standards

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

- ***Absorption***. In portability (under subpart H of this part 982): the point at which a receiving OHA stops billing the initial OHA for assistance on behalf of a portability family. The receiving OHA uses funds available under the receiving OHA consolidated ACC.
- ***Accessible***. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.
- ***Adjusted Income.*** Annual income, less allowable HUD deductions.
- ***Adjusted Annual Income.*** Same as Adjusted Income.
- ***Administrative fee.*** Fee paid by HUD to OHA for administration of the program. (See §982.152.)
- ***Administrative fee reserve*** (formerly "operating reserve"). Account established by OHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.
- ***Administrative plan***. The plan that describes OHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by OHA's board and included as a supporting document to OHA Plan. See §982.54.
- ***Admission***. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.
- ***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.
- ***Annual contributions contract (ACC)***. *The* written contract between HUD and a OHA under which HUD agrees to provide funding for a program under the 1937 Act, and OHA agrees to comply with HUD requirements for the program.
- ***Annual Income.*** The anticipated total income of an eligible family from all sources for the 12- month period following the date of determination of income, computed in accordance with the regulations.
- ***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.
- ***Area Exception Rent***. An amount that exceeds the published FMR. See §982.504(b).
- ***"As-paid" States.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.
- ***Assets.*** (See Net Family Assets.)
- ***Auxiliary aids.*** Services or devices that enable persons with impaired sensory,

manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

- ***Budget authority***. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a OHA program, budget authority is the maximum amount that may be paid by HUD to OHA over the ACC term of the funding increment.

    - ***Child***. *A* member of the family other than the family head or spouse who is under 18 years of age.
    - ***Child care expenses***. Amounts anticipated to be paid by the family for the care of children under13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.
    - ***Citizen***. *A* citizen or national of the United States.
    - ***Co-head.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.
    - ***Common space***. In shared housing: space available for use by the assisted family and other occupants of the unit.
    - ***Computer match***. The automated comparison of data bases containing records about individuals.
    - ***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a OHA.
    - ***Consent form***. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self- employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.
    - ***Congregate housing***. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.
    - ***Contiguous MSA***. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial OHA is located.

- ***Continuously assisted.*** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.
- ***Contract.*** (See Housing Assistance Payments Contract.)
- ***Contract authority.*** The maximum annual payment by HUD to a OHA for a funding increment.

- ***Cooperative*** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.
- ***Covered families***. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.
- ***Dependent***. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.
- ***Disability assistance expenses.*** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.
- ***Disabled family***. A family whose head, spouse, 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.
- ***Disabled person.*** See Person with Disabilities.
- ***Displaced family.*** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.
- ***Domicile***. The legal residence of the household head or spouse as determined in accordance with state and local law.
- ***Drug-related criminal activity***. As defined in 42 U.S.C. 1437f(f)(5).
- ***Drug-trafficking.*** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- ***Economic Self-Sufficiency Program***. Any program designed to encourage, assist,

train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

- ***Elderly family***. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

- ***Elderly Person.*** An individual who is at least 62 years of age.
- ***Eligible Family*** (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.
- ***Employer Identification Number (EIN).*** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation. ***Evidence of citizenship or eligible status.*** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)
- ***Extremely Low Income Family. .*** A very low income family whose annual income does not exceed the higher of (1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or (2) Thirty 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income for the area if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*
- ***Facility***. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.
- ***Fair Housing Act*** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988
- ***Fair market rent (FMR).*** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.
- ***Family.*** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status.

- A family with or without children (the temporary absence of a child from the

home due to placement in foster care is not considered in determining family composition and family size)

- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

- ***Family rent to owner.*** In the voucher program, the portion of rent to owner paid by the family.
- ***Family self-sufficiency program*** **(**FSS program). The program established by a OHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).
- ***Family share.*** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).
- ***Family unit size.*** The appropriate number of bedrooms for a family, as determined by OHA under OHA subsidy standards.
- ***Federal agency.*** A department of the executive branch of the federal government.
- ***Foster Child Care Payment.*** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.
- ***Full-time Student.*** A person who is attending school or vocational training on a full-time bases (carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)
- ***Funding increment.*** Each commitment of budget authority by HUD to a OHA under the consolidated annual contributions contract for OHA program.
- ***Gender identity. Actual or perceived gender-related characteristics.***
- ***Gross rent.*** The sum of the rent to owner plus any utility allowance.
- ***Group home***. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.
- ***Handicap***. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.
- ***Handicap Assistance Expense.*** See "Disability Assistance Expense."
- ***HAP contract***. Housing assistance payments contract. (Contract). A written contract between OHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.
- ***Head of household***. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

- ***Housing assistance payment***. The monthly assistance payment by a OHA, which includes:

(1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

- ***Housing agency (HA).*** *A* state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("OHA" and "HA" mean the same thing.)
- ***Housing Quality Standards***. The HUD minimum quality standards for housing assisted under the voucher program.
- ***HUD.*** The Department of Housing and Urban Development.
- ***Imputed Asset.*** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.
- ***Imputed Income.*** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.
- ***Imputed welfare income.*** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.
- ***Income.*** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.
- ***Income for Eligibility.*** Annual Income.
- ***Income information*** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

- ***Individual with handicaps*.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.
- ***Initial OHA***. In portability, the term refers to both: (1) A OHA that originally

selected a family that later decides to move out of the jurisdiction of the selecting OHA; and (2) A OHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing OHA.

- ***Initial payment standard.*** The payment standard at the beginning of the HAP contract term.
- ***Initial rent to owner.*** The rent to owner at the beginning of the HAP contract term.
- J***urisdiction***. The area in which OHA has authority under State and local law to administer the program.
- ***Landlord.*** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.
- ***Lease***. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and OHA.
- ***Live-in aide***. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

- ***Local Preference.*** A preference used by OHA to select among applicant families.
- ***Low-Income Family.*** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

- ***Manufactured home***. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.
- ***Manufactured home space***. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.
- ***Medical expenses.*** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.
- ***Merger Date.*** October 1, 1999.
- ***Minor.*** A member of the family household other than the family head or spouse, who is under 18 years of age.
- ***Mixed family***. *A* family whose members include those with citizenship or

eligible immigration status, and those without citizenship or eligible immigration status.

- ***Monthly adjusted income.*** One twelfth of adjusted income.
- ***Monthly income.*** One twelfth of annual income.
- ***Mutual housing***. Included in the definition of "cooperative."
- ***National***. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.
- ***Near-elderly family***. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.
- ***Net family assets.*** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

  - In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
  - In determining net family assets, OHA or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

- ***Non-citizen***. *A* person who is neither a citizen nor national of the United States.
- ***Notice of Funding Availability (NOFA).*** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.
- ***Office of General Counsel (OGC).*** The General Counsel of HUD.
- ***Owner***. Any person or entity with the legal right to lease or sublease a unit to a participant.
- ***OHA Plan.*** The annual plan and the 5-year plan as adopted by OHA and

approved by HUD. ***OHA's quality control sample.*** An annual sample of files or records drawn in an unbiased manner and reviewed by a OHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

- ***Participant*** *(participant family).* A family that has been admitted to OHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by OHA for the family (first day of initial lease term).

- ***Payment standard***. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).
- ***Persons With Disabilities.*** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps."
- ***Portability***. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial OHA.
- ***Premises***. The building or complex in which the dwelling unit is located, including common areas and grounds.
- ***Private space***. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.
- ***Processing entity***. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."
- ***Project owner***. The person or entity that owns the housing project containing the assisted dwelling unit.
- ***Public Assistance.*** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.
- ***Public Housing Agency*** *(OHA).* Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

- ***Reasonable rent.*** A rent to owner that is not more than rent charged: (1) For
- comparable units in the
- private unassisted market; and (2) For comparable unassisted units in the premises.

- ***Receiving OHA.*** In portability: A OHA that receives a family selected for participation in the tenant-based program of another OHA. The receiving OHA issues a voucher and provides program assistance to the family.

- ***Recertification.*** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

- ***Remaining Member of Tenant Family.*** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

- ***Residency Preference.*** A OHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").
- ***Residency Preference Area.*** The specified area where families must reside to qualify for a residency preference.
- ***Responsible entity***. For the public housing and the Section 8 tenant-based assistance, project- based certificate
- assistance, and moderate rehabilitation programs, the responsible entity means OHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.
- ***Secretary***. The Secretary of Housing and Urban Development.
- ***Section 8***. Section 8 of the United States Housing Act of 1937.
- ***Section 8 covered programs***. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.
- ***Section 214*** Section 214 of the Housing and Community Development Act of 1980, as amended
- ***Section 214 covered programs*** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.
- ***Security Deposit.*** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.
- ***Set-up charges.*** In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.
- ***Shared housing.*** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.
- ***Sexual orientation. Homosexuality, heterosexuality or bisexuality.***
- ***Single Person.*** A person living alone or intending to live alone.
- ***Single room occupancy housing*** *(SRO).* A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.
- ***Social Security Number (SSN).*** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

- ***Special admission.*** Admission of an applicant that is not on OHA waiting list or without considering the applicant's waiting list position.

- ***Special housing types.*** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).
- ***Specified Welfare Benefit Reduction.*** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- ***Spouse.*** The marriage partner of the head of household.
- ***State Wage Information Collection Agency (SWICA).*** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.
- ***Subsidy standards.*** Standards established by a OHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.
- ***Suspension***. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If OHA decides to allow extensions or suspensions of the voucher term, OHA administrative plan must describe how OHA determines whether to grant extensions or suspensions, and how OHA determines the length of any extension or suspension. This practice is also called "tolling".
- ***Tenancy Addendum.*** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.
- ***Tenant***. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.
- ***Tenant rent to owner***. See "Family rent to owner".
- ***Term of Lease.*** The amount of time a tenant agrees in writing to live in a dwelling unit.
- ***Total Tenant Payment (TTP).*** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.
- **Uniform Property Conditions Standards.**
- ***Unit.*** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.
- ***Utility allowance.*** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a OHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

- ***Utility reimbursement.*** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.
- ***Utility hook-up charge***. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.
- ***Vacancy Loss Payments.*** (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies OHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.
- ***Very Low Income Family.*** A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.
- ***Violent criminal activity.*** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.
- ***Voucher*** *(Housing Choice Voucher).* A document issued by a OHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for OHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.
- ***Voucher holder.*** A family holding a voucher with an unexpired term (search time).
- ***Voucher program.*** The housing choice voucher program.
- ***Waiting list admission.*** An admission from OHA waiting list.
- ***Welfare assistance***. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.
- ***Welfare-to-work (WTW) family.*** A family assisted by a OHA with Voucher funding awarded to OHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).
- ***Work-Eligible Household***. A family whose head, spouse, or sole member is a person that does not meet the qualification for senior nor disabled.