ADMISSIONS AND CONTINUED OCCUPANCY POLICY

EFFECTIVE JANUARY 2014
Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

Marin Housing Authority receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. MHA is not a federal department or agency. A Public Housing Agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. MHA enters into an Annual Contributions Contract with HUD to administer the public housing program. MHA 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 MHA 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: Marin Housing Authority (MHA). This part includes a description of MHA, 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: MHA

M.A. OVERVIEW

The Housing Authority of the County of Marin (MHA) was established in 1942, in the State of California, pursuant to the United States Housing Act of 1937, to provide decent, safe and sanitary affordable housing to low-income families, elderly and disabled persons. In accordance with this objective, the development of standard policies and procedures are necessary in order to ensure equitable treatment for all applicants and residents, as well as to promote the efficient operation of public housing units managed by MHA.

Administration of the Public Housing Program and the functions and responsibilities of the Marin Housing Authority (MHA) staff shall be in compliance with MHA's Personnel Policy, Collective Bargaining Agreement between the Union and MHA, and this Admissions and Continued Occupancy Policy. The administration of MHA's housing program will also meet the requirements of the U. S. Department of Housing and Urban Development (HUD). Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State and local laws, including Fair Housing laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in 24 CFR, Parts 1, 5, 8, 35, 100 and 900-
In the event of inconsistencies, the provisions of the CFR shall prevail.

In Marin County, this Admissions and Occupancy Policy applies to the following Public Housing Properties

**Family Housing: Golden Gate Village (Marin City Public Housing)**

These 300 units were occupied in 1960, replacing federal Lanham Housing

Senior/Disabled Housing: These complexes were constructed, originally in the unincorporated area of the County, under the public housing Turnkey method between 1968 and 1972 and provide 200 apartments.

- Venetia Oaks, San Rafael
- Homestead Terrace, Mill Valley
- Casa Nova, Novato
- Golden Hinde, San Rafael
- Kruger Pines, Mill Valley

In this document, the term "PHA" is used interchangeable with "MHA" and "HA". "MHA", when used herein, refers to the Housing Authority of the County of Marin, also known as Marin Housing.

**1-1.B. ORGANIZATION AND STRUCTURE OF MHA**

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

PHAs are governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which MHA conducts business, and ensures that those policies are followed by PHA 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 MHA are taken through written resolutions, adopted by the board and entered into the official records of MHA.

The principal staff member of MHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of MHA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising MHA'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. In some PHAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. PHA MISSION
MHA's mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. MHA is to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

1-I.D. MHA'S COMMITMENT TO ETHICS AND SERVICE
As a public service agency, MHA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, MHA resolves to:

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

MHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.
IL.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

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

The 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 the federal Department of Housing and Urban Development (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 PHAs 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 PHAs 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.

1-ILB. PUBLIC HOUSING PROGRAM BASICS

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

The job of MHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. MHA screens applicants for public housing and, if they are found eligible and accepted, MHA offers the applicant a unit. If the applicant accepts the offer, MHA 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 MHA 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 MHA owns the public housing development, MHA is the landlord. MHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

1-ILC PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, MHA enters into a contractual relationship with HUD through the ACC. MHA 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, MHA, and the tenant - must play their important parts. The chart on the following page illustrates key aspects of these relationships.
The Public Housing Relationships

Congress Appropriates Funding

HUD Provides Funding To PHA

Program R provides 0

regular and ACC

Ling Subsidy

PHA Administers Program

Lease sp PHA and

Famil 0 ligations

Family (Tenant)
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 PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration.

What does MHA do?
MHA's responsibilities originate in federal regulations and the ACC. MHA 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 waiting list and select families for admission
- Maintain housing units by making any necessary repairs in a timely manner
- 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)
- Make sure MHA has 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 Annual Contributions Contract, HUD-approved applications for funding, MHA'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 the following broad responsibilities:

- Comply with the terms of the lease
- Provide MHA with complete and accurate information, determined by MHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by MHA
- Allow MHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify MHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify MHA 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 in an effective manner.

1-II. D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 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 966: Lease and Grievance Procedures
PART HI: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-HLA. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is MHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in MHA'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. MHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-111.B. CONTENTS OF THE POLICY

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

- The organization of the waiting list and how families are selected and offered available units, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening MHA waiting list (Chapters 3 and 4)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 11)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to MHA of amounts the family owes MHA (Chapter 14)
- Interim redetermination of family income and composition (Chapter 10)
- Policies regarding community service requirements; (Chapter 17)
- Policies and rules about safety and ownership of pets in Public Housing (Chapter 9).
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 PHA policy for PHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD has made it clear that consistency in PHA conduct is important. Refining to and following the ACOP is essential to maintaining consistency in applying PHA 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 PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies MHA has adopted. MHAs Admissions and Continued Occupancy Policy is the document that contains and clarifies PHA 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 PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-B1.C. UPDATING AND REVISING THE POLICY

MHA 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 MHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

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

CHAPTER 2
Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION
This chapter explains the laws and HUD regulations requiring PHAs 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 the PHA's public housing operations.

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

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA 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 (D0.0, issued May 17, 2004.


PART I: NONDISCRIMINATION

2-I.A. OVERVIEW
Federal laws require PHAs 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. The PHA 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)

- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

**MHA Policy**

No state or local nondiscrimination laws or ordinances apply.

**2-I.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

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

**MHA Policy**

MHA will not discriminate on the basis of marital status or sexual orientation.

The PHA will not use any of these factors to:

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

**Providing Information to Families**

The PHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As
Discrimination Complaints

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

MHA Policy

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

MHA will attempt to remedy discrimination complaints made against MHA.

MHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office 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.

The PHA must ensure that persons with disabilities have full access to the PHA'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].

The PHA 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)].

MHA Policy

MHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by MHA, 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 utilize our programs and services, please contact the housing authority."

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 policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities 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 the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the PHA 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 a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA'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 the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

MHA Policy

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

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, the PHA 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 the PHA's programs and services.

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA 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, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

• Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

• The PHA must request only information that is necessary to evaluate the disability-related need for
the accommodation. The PHA may not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

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]

The PHA 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 the PHA, or fundamentally alter the nature of the PHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, 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, the PHA 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 the PHA may verify the need for the requested accommodation.

MHA Policy

After a request for an accommodation is presented, MHA will respond, in writing, within 10 business days.

If MHA 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 MHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If MHA 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 MHA's operations), MHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If MHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, MHA will notify the family, in writing, of its determination within 10 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 MHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

HUD regulations require the PHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].
At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

**MHA Policy**

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with MHA 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**

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

- Notice PIH 2006-13
- 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

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

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIE 2006-13 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA 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.

**2-11.1. DENIAL OR TERMINATION OF ASSISTANCE**

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].
When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(1)(3)(ii)].

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

In addition, the PHA 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-IH.A. OVERVIEW

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

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

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

In order to determine the level of access needed by LEP persons, the PHA 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 the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.
MHA Policy

MHA 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, MHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other MHAs, and will standardize documents. Where feasible and possible, MHA will encourage the use of qualified community volunteers.

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

2-III.C. WRITTEN TRANSLATION

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

MHA Policy

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

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

- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, MHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

MHA Policy

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

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

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

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

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

The phrase "physical or mental impairment" includes:

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

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

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major 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 the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. 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 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
The PHA 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 the PHA 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 the PHA.
  — 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 family members as required.
  — Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.

• The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA 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 the PHA to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS 3-

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

34.B. FAMILY AND HOUSEHOLD [24 CFR 5.403 and HUD-50058 IB, p. 13]
The terms family and household have different meanings in the public housing program.
Family

To be eligible for admission, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. The PHA has the discretion to determine if any other group of persons qualifies as a family.

**MHA Policy**

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

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

Household

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

**FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

Family Breakup

**MHA Policy**

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

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

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

In the absence of a judicial decision or an agreement among the original family members, MHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, MHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, or stalking and provides documentation in accordance with section 14-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, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

3-1.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 cohead or spouse.

MHA Policy
The family may designate any qualified family member as the head of household.

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

3-1.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13]. Spouse means the marriage partner of the head of household.

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

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

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

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

3-1.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

MHA Policy
Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.
When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA 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.

3-I.G. FULL-TIME STUDENT [24 CFR 5.6031]

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 be full-time is defined by the educational institution.

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

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 50-61 years of age [24 CFR 945.105].

Elderly Family

An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly 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.

3-1.1. 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 cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA 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 cohead is a person with disabilities. 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 the PHA 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 12.

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 PHA premises [24 CFR 966.4(0).

**MHA Policy**

A resident family must notify MHA 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 30 cumulative 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, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

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

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered 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 that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].
MHA Policy

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency. Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

MHA Policy

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

Absent Students

MHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to MHA 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.

MHA Policy

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

Absent Head, Spouse, or Cohead

MHA Policy

An employed head, spouse, or cohead 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

MHA Policy

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, MHA 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.

Return of Permanently Absent Family Members

MHA Policy

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

3-LM. 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 supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities.

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

MHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, 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. For continued approval, the family must submit a new, written request—subject to MHA verification—at each annual reexamination.

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 supportive services.

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

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

PART BASIC ELIGIBILITY CRITERIA

3-HA. 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 30 percent of the median income for the area, adjusted for family size.

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 the PHA's public housing program during a PHA fiscal year from the PHA waiting list must be extremely low-income families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the PHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA'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 waiting list admissions during the PHA fiscal year
- Ten percent of waiting list admission to the PHA's housing choice voucher program during the PHA 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.

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

MHA Policy

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

Eligible Noncitizens

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

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the
Ineligible Noncitizens

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

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

Mixed Families

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

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

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

MHA Policy

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

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

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with MHA. The informal hearing with MHA 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 informal hearing process.

Informal hearing procedures are contained in Chapter 13.
Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]

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

Han individual qualifies for a time extension for the submission of required documents, the PHA 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.

MHA Policy

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

H.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2010-3]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

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

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/

Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

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

PART III: DENIAL OF ADMISSION

3-IIIA. 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 the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Act of 2005 (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, or stalking [24 CFR 5.2005(b)].

This part covers the following topics:

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

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

PHAs are 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 the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

HUD requires the P1-1A to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

**MHA Policy**

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

- The PHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].
**MHA Policy**

*Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The PHA 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.

**MHA Policy**

In determining reasonable cause, MHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. MHA will also consider evidence from treatment providers or community-based organisations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

### 3-IIIC. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

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

**Criminal Activity [24 CFR 960.203(c)]**

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA 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.

**MHA Policy**

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three (3) 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 welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of PHA 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, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three (3) years. A conviction for such activity will be given more weight than an arrest or an eviction.

In making its decision to deny assistance, the PHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the PHA 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 the PHA 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, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

MHA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three (3) years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three (3) 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 three (3) years (considering relevant circumstances)
- Owe rent or other amounts to this or any other PHA or owner in connection with any assisted housing program
- 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 MHA personnel

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

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

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

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA 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 the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

MHA Policy

MHA will perform criminal background checks through LIVESCAN or local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, MHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHAs are 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)].

If the PHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant 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(t) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

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

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

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

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

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

If the PHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and
implement one of the two following policies:

Policy A: The PHA must submit a request for information to a drug abuse treatment facility for all
families before they are admitted. The request must be submitted for each proposed household
member who is at least 18 years of age, and for each family head, spouse, or co head regardless of
age.

Policy B: The PHA must submit a request for information only for certain household members, whose
criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for
denial of admission or whose prior tenancy records indicate that the proposed household member
engaged in destruction of property or violent activity against another person, or they interfered with
the right of peaceful enjoyment of the premises of other residents.

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

MHA Policy
MHA will obtain information from drug abuse treatment facilities to determine whether any applicant
family's household members are currently engaging in illegal drug activity only when MHA has
determined that the family will be denied admission based on a family member's drug related criminal
activity, and the family claims that the culpable family member has successfully completed a supervised
drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]
The PHA is responsible for the screening and selection of families to occupy public housing units. The
PHA may consider all relevant information. Screening is important to public housing communities and
program integrity, and to ensure that assisted housing is provided to those families that will adhere to
lease obligations.

MHA Policy
The PHA will consider the family's history with respect to the following factors:
Payment of rent

Caring for a unit and premises

Respecting the rights of other residents to the peaceful enjoyment of their housing

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 3-111. B and C

Compliance with any other essential conditions of tenancy
Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

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

**MHA Policy**

In order to determine the suitability of applicants MHA will examine applicant history for the past three (3) years. Such background checks will include:

*Past Performance in Meeting Financial Obligations, Especially Rent*

PHA and landlord references for the past three (3) years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs 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 his/her 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 MHA 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 MHA 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. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from MHA, 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*

PHA and landlord references for the past three (3) 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 three (3) 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.

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.

3-IIIE. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

**MHA Policy**

MHA 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)]

HUD authorizes the PHA 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 the PHA 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, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

**MHA Policy**

MHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

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

The PHA 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 124 CFR 960.203(c)(3Xi)]

HUD permits PHAs 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.

**MBA Policy**

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 MHA request.

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

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

**MHA Policy**

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, MHA will determine whether the behavior is related to the disability. If so, upon the family's request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA 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-IILF. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

The Violence against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.

Definitions of key terms used in VAWA are provided in section 14-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.
Notification

IVTUA Policy
MHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under MHA's policies. Therefore, if MHA makes a determination to deny admission to an applicant family, MHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 14-VII.0 of this ACOP and will request that an applicant wishing to claim this protection notify MHA within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007/]

MHA Policy
If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, or stalking, MHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 14-VII.D of this ACOP.

Perpetrator Documentation

MHA Policy
If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-IIIG. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-111.E.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].
MHA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, MHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute the information within that 10 day period, MHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-111.F.
EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(dX1XA), which reads:
  
  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months
  
  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:
  
  (A) IN GENERAL — The term *developmental disability* means a severe, chronic disability of an individual that-
  
  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
  
  (ii) is manifested before the individual attains age 22;
  
  (iii) is likely to continue indefinitely;
  
  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
  
  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

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

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

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.
A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

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

Individual with Handicaps (24 CFR 83]

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

(1) Physical or mental impairment includes:

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

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

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

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

(4) Is regarded as having an impairment means:

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

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

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment
Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

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

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

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families from the waiting list. The PHAs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the PHA'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 the PHA will handle the applications it receives.

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

Part III: Tenant Selection. This part describes the policies that guide the PHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the PHA 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 the PHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA'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. 681 HUD permits the PHA 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 the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36].

MHA Policy

Depending upon the length of time that applicants may need to wait to be housed, MHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, MHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. 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 waiting list.

Families may obtain application forms from MHA's office during normal business hours. Families may also request — by telephone or by mail — a form be sent to the family via first class mail.

Completed applications must be returned to MHA by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted MHA for processing. If an application is incomplete, MHA will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process.

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

The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide...
an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

**Limited English Proficiency**

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

**4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA must review each completed application received and make a preliminary assessment of the family's eligibility. The PHA must place on the waiting list families for whom the list is open unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

**Ineligible for Placement on the Waiting List**

**MHA Policy**

If MHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, MHA will send written notification of the ineligibility determination within 10 business 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 13).

**Eligible for Placement on the Waiting List**

**MI-IA Policy**

MHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

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

MHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to MHA 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.
PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW
The PHA must have policies regarding the type of waiting list it will utilize as well as the various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

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

4-II.B. ORGANIZATION OF THE WAITING LIST
The PHA's public housing waiting list must be organized in such a manner to allow the PHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

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

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific site(s) selected (only if PHA offers site-based waiting lists)

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

MHA Policy
MHA will maintain one single community-wide waiting list for its developments. Within the list, MHA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

The PHA will not adopt site-based waiting lists.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation
program that the PHA 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 PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

**MHA Policy**

MHA will not merge the public housing waiting list with the waiting list for any other program the PHA operates.

### 441.C. OPENING AND CLOSING THE WAITING LIST

#### Closing the Waiting List

**The PHA is permitted to close** the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The PHA 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].

**MHA Policy**

The PHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 12 months for the most current applicants. Where MHA has particular preferences or other criteria that require a specific category of family, MHA 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. The PHA should publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that the PHA is reopening the waiting list. Such notice must comply with HUD fair housing requirements. The PHA should specify who may apply, and where and when applications will be received.

**MHA Policy**

MHA 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.

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

- **INDEPENDENT JOURNAL**
- **SAN FRANCISCO CHRONICLE**
- **MARIN HOUSING AUTHORITY WEBSITE**

### 4-II.D. FAMILY OUTREACH 124 CFR 903.2(d); 24 CFR 903.7(a) and (b)

The PHA should conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.
Because HUD requires the PHA to serve a specified percentage of extremely low income families, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

PHA 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

PHA outreach efforts must be 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

**MHA Policy**

MHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MHA'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

**MHA Policy**

While the family is on the waiting list, the family must inform the MHA, within **10 business days**, 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 the PHA to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

**Purging the Waiting List**

The decision to withdraw 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 the PHA's request for
information or updates because of the family member’s disability, the PHA 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.

**MHA Policy**

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, MHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that MHA 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 MHA not later than 15 business days from the date of the PHA letter.

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

If the notice is returned by the post office 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, no informal hearing will be offered. Such failures to act on the part of the applicant prevent MHA 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 may reinstate the family if s/he determines the lack of response was due to MHA error, or to circumstances beyond the family's control.

**Removal from the Waiting List**

**MHA Policy**

MHA will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

If MHA 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 MHA 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 the PHA's decision (see Chapter 13) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The PHA 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 the PHA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

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

MHA Policy

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

4-III.B. SELECTION METHOD

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

Local Preferences [24 CFR 960.206]

PHAs are 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 the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA 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)].

MHA Policy

The PHA will use the following local preference:

**Working Preference**

In order to bring higher income families into public housing, MHA will establish a preference for "working" families, where the head, spouse, co-head, or sole member is employed at least 20 hours per week. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)].
*Domestic Violence Victims*

When there is actual or threatened, physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.

To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless MHA gives prior written approval.

MHA will approve the return of the abuser to the household after eviction only if a counselor, therapist, or other knowledgeable professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of MHA, MHA will deny or termination assistance for breach of the certification. MHA will take precautions to ensure the new location of the family is concealed in cases of domestic abuse.

*Involuntary Displacement*

Families are considered to be involuntarily displaced if they are required to vacate their housing as a result of:

- **Natural Disaster** declared by a local state, or federal government entity (fire, flood, earthquake, etc.) or any documented action by a local, state, or federal government entity related to code enforcement, public improvement or development.

- **State or Federal Witness Protection** to avoid reprisals because the family provided information on criminal activities to a law enforcement agency, and after a threat assessment the law enforcement agency recommends re-housing the family to avoid or reduce risk of violence against the family. The family must be a part of a State or Federal Witness Protection Program. Participation in a victim witness assistance program that offers only money to obtain services is not eligible for this preference.

- **Hate Crimes** if a member of the family has been the victim of one or more hate crimes, including racial and ethnic harassment, and the applicant has vacated the unit because of the crime, or the fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit. A hate crime is actual or threatened physical violence or intimidation that is directed against a person or his property and is based on the person's race, color, religion, sex, national origin, disability or familial status including sexual orientation and occurred within the last 30 days or is of continuing nature, (as defined in California Penal Code Section 422.6) The family must be referred by a law enforcement agency.

*Homeless Preference*

Applies to applicants who:

- Lack a fixed, regular and adequate nighttime residence
• Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations

• A public or private place not ordinarily used as an accommodation for human beings (lacks indoor plumbing, toilet facilities, bathing facilities, adequate or safe electrical service, heat, or kitchen.

**Family Preference**

The "family" preference is available to two or more persons related by blood, marriage, adoption, or laws who will live together in the same dwelling, or two or more persons who live together and whose income and resources are available for use in meeting regular living expenses for the family.

**Disabled Preference**

The "disabled" preference is available when the applicant's household will contain one or more members who are considered disabled as defined in Marin Housing's policy.

**Education Preference**

Applies to applicants who meet any of the following requirements:

The head of household, spouse/significant other or sole member is currently a student enrolled in, or a graduate in the last six months of a school training program designed to prepare enrollees for the job market.

A student is an individual who is attending a school or training program full-time *(12 units or more)*.

**Veteran Preference**

This preference is for active members in the military, veterans, or surviving spouses of veterans. Dishonorably discharged veterans are not entitled to this preference.

**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 the PHA'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, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the PHA's HCV program during a PHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the PHA'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 the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of PHA 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.

MHA Policy

MHA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.4071]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA 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, the PHA 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. The PHA 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]

The PHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The PHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the PHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the PHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403]. If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].
MHA Policy

MHA does not have designated elderly or designated disabled housing at this time.

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

The PHA'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 the PHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The PHA'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 PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a 131-IA 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, the PHA must comply with the following steps:

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

MHA Policy

MHA will determine the average income of all families in all covered developments on an annual basis.

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

MHA Policy

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

Step 3. The PHA 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 (30% of median income).

Step 4. The PHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.
Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the PHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the PHA'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 the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the PHA's deconcentration policy. The PHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA'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, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

Order of Selection [24 CFR 960.206(e)]

The PHA system of preferences may select families either according to the date and time of application or by a random selection process.

**MHA Policy**

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the PHA.

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

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

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

4-III.C. NOTIFICATION OF SELECTION
When the family has been selected from the waiting list, the PHA must notify the family.

**MHA Policy**

MHA 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 MHA 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 MHA from making an eligibility determination; therefore no informal hearing will be offered.

**THE APPLICATION INTERVIEW**

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2010-3].

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)].

**MHA Policy**

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

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. 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 MHA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.
Pending disclosure and documentation of social security numbers, MHA will allow the family to retain its place on the waiting list for 10 business days. If not all household members have disclosed their SSNs at the next time a unit becomes available, the PHA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the PHA will proceed with the interview. If the PHA 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, the PHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. 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 limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA 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 the PHA from making an eligibility determination, therefore the PHA will not offer an informal hearing.
4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA 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)].

MHA Policy

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

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

MHA Policy

If MHA determines that the family is ineligible, the PHA 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 13).

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. See Section 3-111.G for MHA's policy regarding such circumstances.
Chapter 5

OCCUPANCY GUIDELINES

INTRODUCTION

Occupancy Guidelines are established by MHA 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 excessive wear and tear or underutilization. This Chapter explains the Occupancy Guidelines used to determine minimum and maximum unit sizes for various sized families when they are selected from the waiting list, or when a family's size changes, or when a family requests an exception to the occupancy guidelines.

It is MHA's policy that each applicant shall be assigned an appropriate place on a jurisdiction-wide waiting list. In filling an actual or expected vacancy, MHA will offer the dwelling unit to an applicant taken from the waiting list that has completed the eligibility process and has passed the screening procedures. This Chapter describes MHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list.

A. DETERMINING UNIT SIZE

MHA does not determine who shares a bedroom/sleeping room but there must always be at least one person per bedroom. MHA's Occupancy Guideline standards for determining unit size shall be applied in a manner consistent with Fair Housing and I-IUD guidelines which were established in the Federal Register on December 18, 1998 that "an occupancy policy of two persons in a bedroom, as a general rule, is reasonable..."

For occupancy guidelines, an adult is a person 18 years or older or an emancipated minor.

One bedroom will generally be assigned for every two family members within the following guidelines:

- Adults of different generations, adults of the opposite sex (other than spouses), and unrelated adults will not be required to share a bedroom.
- A single head of household parent shall not be required to share a bedroom with his/her child, although they may do so at the request of the family.
- Two children of the opposite sex over the age of six, will not be required to share a bedroom, although they may do so at the request of the family.
• An unborn child will not be counted as a person in determining unit size. A single pregnant woman may be assigned to a one-bedroom unit. In determining unit size, MHA will count a child who is temporarily away from the home because the child has been placed in foster care for a period not to exceed 12 months.

• Live-in attendants must be approved by MHA. Following approval they will generally be provided a sleeping area or a bedroom. No additional bedrooms are provided for the attendant's family.

• For the first year a child is away at school, a bedroom may be maintained as long as the child lives with the family during school recesses that include the summer break. The family must report that the child is only temporarily absent and provide proof of school attendance and alternative living arrangements.

• Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military for an extended period of time, except for the head of household or spouse.

• Single person families shall be allocated a studio unit when a studio unit is available in the public housing complex. If one is not available, a one-bedroom unit will be used.

• The living room may be used as a bedroom as a reasonable accommodation, at the request of the family or in 0-bedroom units.

• Exceptions to the largest permissible unit size may be made in cases of reasonable accommodations for a person with disabilities.
B. GUIDELINES FOR DETERMINING UNIT SIZE

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>Persons in Household (Minimum #)</th>
<th>Persons in Household (Maximum #)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Bedroom</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>4 Bedrooms</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

The minimum standards above may be waived when necessary where the health or disability of a family member warrants assignment of a larger or smaller unit. Medical need for live-in attendant or exceptionally large medical equipment must be documented to the satisfaction of MI-IA for such waiver to be granted. Medical documentation for tenants to qualify for a separate bedroom must include a diagnosis, a prognosis, and the reason for a separate bedroom. The duration of the medical need must be twelve (12) months or more.

C. PLAN FOR UNIT OFFERS

The plan for selection of applicants and assignment of dwelling units to assure equal opportunity and non-discrimination on grounds of race, color, sex, religion, or national origin is:

In the event of two or more eligible applicants for the same unit size in the same rent range with identical preference/priority status, the date and time sequence of applications shall determine the order of selection, with the applicant who filed the earliest being offered the first available vacancy of appropriate size or application is completed first. If the applicant rejects an offer for a justifiable reason, as stated below, he or she shall retain his or her place on the eligible list.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.
D. CHANGES IN UNIT SIZE

MHA will grant exceptions from the guidelines in cases where the family requests, MHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances, and there is a vacant unit available. If an applicant requests a change in unit size, the following guidelines will apply:

a. When a family applies for housing, and each year when the waiting list is updated, a determination of unit size will be made. Some families will qualify for more than one unit size. The unit size standards shall be discussed with each applicant family that qualifies for more than one unit size. They will be asked to declare in writing the unit size they desire. Based on the family's choice they will be placed on the waiting list for the appropriate bedroom size, within the guidelines for determining unit size. (Section B)

b. Applicants may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, as long as the unit is not overcrowded according to local code. The family will be required to sign a statement agreeing to occupy the unit assigned at their request until their family size or circumstances change.

c. The family may request to be placed on a larger bedroom size waiting list than indicated by MHA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size, and must be verified by MHA before the family is placed on the larger bedroom size list. Examples are:

- Elderly persons or persons with disabilities who may require a live-in attendant
- Persons who would ordinarily occupy one bedroom, but cannot because of a verified medical or health reason, addition of a live-in aide, or need for medical equipment.
- A doctor must verify requests based on health-related reasons.

All members of the family residing in the unit must be approved by MHA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform MHA within ten days.

MHA will not assign a larger bedroom size due to additions of family members other than by birth, adoption, marriage, or court-awarded custody. Such additions will be subject to eligibility and suitability screening as set forth in this policy.

If it is determined that a family who is licensed to provide foster care or adult care had not been utilizing the extra bedroom(s) a reasonable amount of time during the prior 12 month annual period, the family will be required to relocate to an appropriate size unit. A reasonable amount of time is a minimum if 90 days during the 12 month annual period.
To avoid vacancies, MHA may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease, and can result in eviction if the family refuses to move.

E. ACCESSIBLE UNITS

MHA has units designed for persons with mobility impairments. These units were designed and constructed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other physical modifications. Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the units.

No non-mobility impaired families will be offered these units until all eligible mobility-impaired applicants have been considered, as long as a mobility-impaired applicant can be found.

Accessible units will be offered and accepted by non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date if a person with a mobility impairment requiring the unit applies for housing and is determined eligible. MI-IA requires that the applicant agree to move within 30 days. This requirement is a provision of the lease, and eviction can result if the family refuses to move.

Foster Care Provider

Applicant - An applicant who claims to be a foster care provider must provide a copy of the foster care license and placement contracts for the last 12 months to verify the number of foster children that have resided in the home at the time of the initial determination of eligibility in order to obtain extra bedroom(s).

Resident — At the annual reexamination the resident must provide documentation that the foster care license is still active and copies of the placement contracts to document the number of placements and the number of children for each placement in the home during the prior 12-month annual period. Upon receipt of the documentation NAHA will review the utilization of the extra bedroom(s) and determine if there has been a reasonable utilization of the extra space.

Adult Care Provider

Applicant - An applicant who claims to be a foster care provider must provide a copy of the foster care license and placement contracts for the last 12 months to verify the number of foster children that have resided in the home at the time of the initial determination of eligibility in order to obtain extra bedroom(s).

Resident — At the annual reexamination the resident must provide documentation that the adult care license is still active and copies of the placement contracts to document the number of placements and the number of adults for each placement in the home during the prior 12-month
annual period. Upon receipt of the documentation MHA will review the utilization of the extra bedroom(s) and determine if there has been a reasonable utilization of the extra space.

**Reasonable Utilization**

If it is determined that a family who is licensed to provide foster care or adult care had not been utilizing the extra bedroom(s) a reasonable amount of time during the prior 12 month annual period, the family will be required to relocate to an appropriate size unit. A reasonable amount of time is a minimum of 90 days during the 12-month annual period per bedroom.

**Unit Assignment**

Units designated and specifically equipped for disabled individuals shall be assigned in the following order:

a. **First** to Housing Authority residents currently occupying a unit in the same project as the vacant accessible unit or occupying a unit in a comparable project operated by the Authority, where the resident has a disability requiring the accessibility features of the vacant unit and where the resident currently occupies a unit not having those features. The resident must meet all other applicable transfer requirements (i.e. current resident account balance, unit in good repair). If such qualified resident does not exist, then the Authority shall offer the vacant unit;

b. **Second** to an eligible qualified applicant on the Authority's waiting list, where the applicant has a disability requiring the accessibility features of the vacant unit; or

c. **Third** when no eligible qualified resident or applicant can be found, a non-disabled applicant may be offered the unit with the following restrictions:

When there is no current MHA resident that required an accessible unit and no applicant can be found that requires an accessible unit then an applicant who does not have a disability requiring the accessibility features of the unit, the Authority requires the applicant to agree, and shall incorporate into the dwelling lease, an agreement that the resident will relocate to the next available, non-accessible unit of a suitable size within 30 days of receipt of a notice to go relocate. The Housing Authority may, at its discretion, pay to the resident a maximum of $100.00 to help cover the cost of relocating to another suitably-sized unit or provide assistance from the maintenance staff.

For applicants requiring accessible units for sight or hearing impairments, MHA will make reasonable accommodations or reasonable modifications to the units.
F. TIME-LIMIT FOR ACCEPTANCE OF UNIT

The first qualified applicant will be offered two units. If the applicant turns down the first unit the applicant will be offered a second unit. The applicant must accept a unit offer within 2 working days of the date the offer is made. Offers made over the telephone will be confirmed by letter. If unable to contact an applicant by telephone, MHA will send a letter.

G. APPLICANTS UNABLE TO TAKE OCCUPANCY

If an applicant is willing to accept the second unit offered, but is unable to take occupancy at the time of second offer for "good cause," the applicant will be given a third chance to accept a unit.

Examples of "good cause" reasons for the refusal to take occupancy of a housing unit include, but are not limited to:

1. If the applicant is willing to accept the unit offered but is unable to move at the time of the offer and presents clear evidence of his or her inability to move, the applicant shall retain his or her place on the eligible applicant list and be offered the next succeeding vacancy of appropriate size.

2. If an applicant presents to the satisfaction of the Authority clear evidence that acceptance of a given offer of a suitable vacancy will result in undue hardship not related to consideration of race, creed, color, sex, national origin, or the handicapped status of another resident such as inaccessibility to source of employment, children's day care and the like, the applicant shall retain his or her place on the eligible applicant list and be offered the next succeeding vacancy of appropriate size. Inaccessibility to source of employment or children's day care means such that an adult household member must quit a job, or drop out of an educational institution or a job training program;

3. The family demonstrates to MHA's satisfaction that accepting the offer will result in a situation where a family member's life, health or safety will be placed 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. The reasons offered must be specific to the family. Refusals due to the location of the unit alone are not considered to be good cause.

4. A qualified, knowledgeable, health professional verifies that temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member is occurring at the time of the offer;
5. The unit is inappropriate for the applicant's disabilities. 424 CFR 945.303(d)

H. APPLICANT STATUS AFTER DENIAL OF UNIT OFFER

Once the applicant has been certified as suitable, the applicant will be offered a housing unit in the order established by this policy. If an applicant rejects the first unit offered he/she will be offered the next available unit. All offered and/or rejected units will be documented and placed in the applicant file. If the applicant rejects the second unit offer, **MHA will remove the applicant from the waiting list**, unless he qualifies for the offer of a third unit under F above. The applicant may reapply if or when the waiting list is open. If the unit offered is refused because it is inappropriate for the applicant's disability, the family will retain its place on the list. After an offer of a unit is made the applicant will have 2 working days to accept the unit. If MHA does not hear from the applicant it will be deemed a turn-down of the unit.

I. APPLICANTS WITH A CHANGE IN FAMILY SIZE OR STATUS

Changes in family composition, status, or income between the time of the interview and the offer of a unit will be processed. MHA shall not lease a unit to a family whose occupancy will overcrowd or underutilize the unit.

J. FAMILY MOVES

When a change in the circumstances in a tenant family requires another unit size, the family's move depends upon the availability of a suitable size and type of unit. If the unit is not available at the time it is requested, the family will be placed on the Transfer List.

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If an unusual situation occurs, which is not currently covered in this policy, the case should be taken to the Program Manager who will review the situation, depending on the individual circumstances and the verification provided.

(See Transfer Policy Chapter 11)
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. The PHA 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 PHA 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 PHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA 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.

PART I: ANNUAL INCOME

OVERVIEW

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

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

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

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

Sections 6-I.B and 6-I.0 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.

6-LB. 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.

<table>
<thead>
<tr>
<th>Summary of Income Included and Excluded by Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live-in aides</td>
</tr>
<tr>
<td>Foster child or foster adult</td>
</tr>
<tr>
<td>Head, spouse, or cohead Other adult family members</td>
</tr>
<tr>
<td>Children under 18 years of age</td>
</tr>
<tr>
<td>Full-time students 18 years of age or older (not head, spouse, or cohead)</td>
</tr>
</tbody>
</table>

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].

MHA Policy

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

**MHA Policy**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to MHA 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].

**MHA Policy**

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

**Absent Head, Spouse, or Cohead**

**MHA Policy**

An employed head, spouse, or cohead 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**

**MHA Policy**

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, MHA 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**

**MHA Policy**

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA 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.
Caretakers for a Child

MHA Policy

If neither a parent nor a designated guardian remains in a household receiving assistance, MHA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases, MHA will extend the caretaker's status as an eligible visitor.

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

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

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA 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

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA 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)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)]. HUD allows PHAs to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.
MHA Policy

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

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

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If MHA determines additional information is needed.

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

When MHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), MHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to MHA to show why the historic pattern does not represent the family's anticipated income.

**Known Changes in Income**

If MHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case MHA would calculate annual income as follows: ($8/hour x 40 hours x 7 weeks) + ($8.25 x 40 hours x 45 weeks).

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, MHA 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 MHA's policy on reexaminations does not require interim reexaminations for other types of changes.

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

- EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.
Projecting Income

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

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

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

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

MHA Policy

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

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

MHA Policy

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

Children's Earnings [24 CFR 5.609(c)(11)]

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, spouse, or cohead) 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. 529].
**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(0)
- 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 the PHA, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.

**State and Local Employment Training Programs**

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

**MHA Policy**

MHA 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].
MHA 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, MHA 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 MHA'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.

**MHA 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]**

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

**Eligibility**

This disallowance applies only to individuals in families already 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.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

MHA Policy

MHA defines prior income, or prequalifying income, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

MHA Policy

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

MHA Policy

During the 48-month eligibility period, MHA 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 his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Individual Savings Accounts [24 CFR 960.255(d)]
MHA Policy

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

The following rules pertaining to ISAs do not apply to this public housing program.

A qualified family paying income-based rent may choose an ISA instead of being given the EID. MHA must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the PHA will deposit the difference between the higher rent and the EID rent in the savings account.

Amounts deposited to ISAs may only be withdrawn for the following reasons:

- Because the family is purchasing a home
- To pay education costs of family members
- Because the family is moving out of public or assisted housing
- To pay any other expenses the PHA authorizes to promote economic self-sufficiency

MHA is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. MHA may not charge the family a fee for maintaining the account.

At least once each year MHA must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.

MHA Policy

When applicable, MHA will provide the family with a statement of the balance in their account, including any interest earned, annually and upon request when the family makes withdrawals from the account.

If the family moves out of public housing, MHA must return the balance in the family's ISA, less any amounts the family owes MHA.

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].

MHA Policy

To determine business expenses that may be deducted from gross income, the PHA 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 MHA to deduct from gross income expenses for business expansion.

**MHA 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 the PHA to deduct from gross income the amortization of capital indebtedness.

**MHA Policy**

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MHA 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 the PHA to include in annual income the withdrawal of cash or assets from the operation of a business unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

**MHA 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, MHA 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

**MHA 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 MHA 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, MHA 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 PHA policies related to each type of asset.

**General Policies**

**Income from Assets**

The PHA 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 the PHA 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) the PHA 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, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

**MHA 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 MHA 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 the PHA 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.

**MHA 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 6-1.1.)

**Imputing Income from Assets [24 CFR 5.609(b)(3)]**

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA 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 the current HUD-established passbook savings rate.

**Determining Actual Anticipated Income from Assets**

*It* may or may not be necessary for the PHA 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."

**MHA Policy**

If an asset is owned by more than one person and any family member has unrestricted access to the asset, MHA 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, MHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MHA will prorate the asset evenly among all owners.

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

HUD regulations require the PHA 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**

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

MHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

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

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

Separation or Divorce

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

MHA 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

MHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. MHA may verify the value of the assets disposed of if other information available to the MHA 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.

MHA Policy

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

In determining the value of a savings account, MHA will use the current balance.
In determining the anticipated income from an interest-bearing checking or savings account, MHA 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.

**MHA Policy**

In determining the market value of an investment account, MHA 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), MHA 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. 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.

**MHA 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 MHA determines
that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

**Trusts**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

**Revocable Trusts**

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

**Nonrevocable Trusts**

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-1.11. Lump-sum receipts are discussed earlier in this section.)

**Retirement Accounts**

**Company Retirement/Pension Accounts**

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-1.11. 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].

**MHA Policy**

In determining the value of personal property held as an investment, MHA will use the family’s estimate of the value. MHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting 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)].

**MHA Policy**

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

**Life Insurance**

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

**6-1.14. 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 [CFR 5.609(b)(4)]. 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 [FR Notice 11/24/08].

**MHA Policy**

When a delayed-start payment is received and reported during the period in which MHA is processing an annual reexamination, MHA 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 MHA.

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

The PHA 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, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2008-40].
  
  MHA Policy

  MHA 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.J.) [24 CFR 5.609(b)(4)].

6-1.1. 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]

The PHA 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. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)].

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency inform the PHA 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 the PHA'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-LK. 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

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

**MHA Policy**

- MHA will count court-awarded amounts for alimony and child support unless MHA 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

The PHA 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)].

**MHA 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 MHA. For contributions that may vary from month to month (e.g., utility payments), MHA will include an average amount based upon past history.

6-I.I. 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:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

**MHA Policy**

Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment is not considered student financial assistance and is included in annual income.

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]

- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
• Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]

• Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]

• Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]

• Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

• Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. 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) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the 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)

(s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

**PART II: ADJUSTED INCOME**

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs 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 (PHA) 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.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.
Anticipating Expenses

MHA Policy

Generally, MHA 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 nonschool periods and cyclical medical expenses), MHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHA 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. MHA 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 cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

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, cohead, or sole member is 62 years of age or older; and a *disabled family* is a family whose head, spouse, cohead, 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 cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

**Definition of Medical Expenses**

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."
MHA Policy

The most current IRS Publication 502, Medical and Dental Expenses, will be used to determine the costs that qualify as medical expenses.

<table>
<thead>
<tr>
<th>Summary of Allowable Medical Expenses from IRS Publication 502</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services of medical professionals</td>
</tr>
<tr>
<td>Surgery and medical procedures that are necessary, legal, noncosmetic</td>
</tr>
<tr>
<td>Services of medical facilities</td>
</tr>
<tr>
<td>Hospitalization, long-term care, and in-home nursing services</td>
</tr>
<tr>
<td>Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</td>
</tr>
<tr>
<td>Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</td>
</tr>
</tbody>
</table>

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

MHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, MHA 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.

**MHA 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, MHA 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 MHA 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 PHAs to further define and describe auxiliary apparatus [VG, p. 30].

**Eligible Auxiliary Apparatus**

**MHA Policy**

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

**Eligible Attendant Care**

The family determines the type of attendant care that is appropriate for the person with disabilities.

**MHA Policy**

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.
If the care attendant also provides other services to the family, MHA 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.

**MHA Policy**

MHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, MHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and MHA 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 MHA Policy**

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, MHA 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, 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**

**MHA 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, MHA 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**

**MHA 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 MHA.

**Furthering Education**

**MHA 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**

**MHA 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 earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to
enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

MHA 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].

**MHA 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, MHA 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. The PHA 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**

**MHA 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, the PHA 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.
MHA 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, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The Form HUD-50058 Instruction Booklet states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

MHA Policy

MHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.
**Welfare Rent** [24 CFR 5.6281]

**MHA Policy**

Welfare rent does not apply in this locality.

**Minimum Rent** [24 CFR 5.6301]

**MHA Policy**

The minimum rent for this locality is $0.

**Optional Changes to Income-Based Rents** [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs 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 the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA 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.

**MHA Policy**

MHA 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].

**MHA Policy**

MHA chooses not to use ceiling rents.

**Utility Reimbursement** [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

**MHA Policy**

MHA will make utility reimbursements to the family.
6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

**MHA Policy**

The financial hardship rules described below do not apply in this jurisdiction because MHA has established a minimum rent of $50.

**Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if 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 TIP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TIP is the highest of the remaining components of the family's calculated TIP.

**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 noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

   **MHA Policy**

   A hardship will be considered to exist only if the loss of eligibility has an impact on the family’s ability to pay the minimum rent.

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent.

   **MHA Policy**

   For a family to qualify under this provision, the cause of the potential eviction must be the family’s failure to pay rent.

3. Family income has decreased because of changed family circumstances, including the loss of employment.

4. A death has occurred in the family.

   **MHA Policy**

   In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

5. The family has experienced other circumstances determined by the PHA.
MHA Policy

MHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

MHA Policy

MHA 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.

The PHA 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. The example below demonstrates the effect of the minimum rent exemption.

<table>
<thead>
<tr>
<th>Example: Impact of Minimum Rent Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assume the PHA has established a minimum rent of $35.</td>
</tr>
<tr>
<td>TTP — No Hardship</td>
</tr>
<tr>
<td>$0 30% of monthly adjusted income</td>
</tr>
<tr>
<td>$15 10% of monthly gross income</td>
</tr>
<tr>
<td>N/A Welfare rent</td>
</tr>
<tr>
<td>$35 Minimum rent</td>
</tr>
<tr>
<td>Minimum rent applies.</td>
</tr>
<tr>
<td>TTP = $35</td>
</tr>
</tbody>
</table>

MHA Policy

To qualify for a hardship exemption, 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.

MHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.
For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

**MHA Policy**

MHA will require the family to repay the suspended amount within 30 calendar days of MRA's notice that a hardship exemption has not been granted.

**Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA 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 the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA 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 the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

**MHA Policy**

MHA will enter into a repayment agreement in accordance with the PHA's repayment agreement policy (see Chapter 14).

**Long-Term Hardship**

If the PHA determines that the financial hardship is long-term, the PHA 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.

**MHA Policy**

The hardship period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.
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. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review its schedule of utility allowances each year. Between annual reviews, the PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective [PH Occ GB, p. 171].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

MHA Policy

Unless MHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

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. The PHA must prorate the assistance provided to a mixed family. The PHA 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, the PHA must:

1. Subtract the TTP from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
2. Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
3. Multiply the member maximum subsidy by the number of eligible family members.
(4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

**MHA Policy**

Revised public housing maximum rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

For policies related to the establishment of the public housing maximum rent see Chapter 16.

6-IIE. 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 the PHA 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)]**

Once each year, the PHA 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. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

**MHA Policy**

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

MHA 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.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA'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 the PHA 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 the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.
MHA Policy
Upon determination by MHA that a financial hardship exists, MHA 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 the PHA to be appropriate

MHA Policy
MHA 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
MHA 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.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and phase-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]
Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the Form HUD-50058 Instruction Booklet.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.
If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated 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'; and

(B) Are not otherwise excluded under paragraph (c) of this section.

1 Text of 45 CFR 260.31 follows (next page).
If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

(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) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

**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(0);
- **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, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.
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24 CFR 960.255 Self-sufficiency incentive—Disallowance of increase in annual income.

(a) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(b) Disallowance of increase in annual income.

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) Inapplicability to admission. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) Individual Savings Accounts. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:
(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA.
Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).
(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed income, the PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.
ACOP

CHAPTER 7
Chapter 7

VERIFICATION


INTRODUCTION

The PHA 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. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA 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 the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA 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, the PHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the PHA's grievance procedures.
7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD authorizes the PHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

MHA Policy

**In order of priority**, the forms of verification that MHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or resident)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

MHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to MHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

MHA 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 MHA and must be signed in the presence of a PHA representative or PHA notary public.

File Documentation

The PHA 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 the PHA 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.

MHA Policy

MHA will document, in the family file, the following:

- Reported family annual income
Value of assets
Expenses related to deductions from annual income
Other factors influencing the adjusted income or income-based rent determination

When MHA is unable to obtain third-party verification, the PHA 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 the PHA'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 the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for resident families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

MHA Policy

MHA will obtain income reports for annual 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 annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.
When the PHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

**EIV Discrepancy Reports**

The EIV discrepancy report is a tool for identifying families that may have concealed or underreported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 and 30 months old at the time reports are generated.

Families that have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.

Income discrepancies may be identified through use of the EIV "Income Discrepancy Report" or by review of the discrepancy tab for the individual family.

**MHA Policy**

MHA will generate the Income Discrepancy Report at least once every 6 months.

When MHA determines that a resident appearing on the Income Discrepancy Report has not concealed or underreported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed.

MHA will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or underreported income, MHA will request independent written third-party verification of the income in question.

When MHA determines through file review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in **Chapter 14, Program Administration**.

**EIV Identity Verification**

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

PHAs are 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 resident fails, a message will be displayed within the EIV system and no income information will be displayed.

**MHA Policy**

MHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. MHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When MHA determines that discrepancies exist as a result of MHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.
Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

MHA Policy

MHA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA 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.

MHA Policy

Third-party documents provided by the family must be dated within 60 days of the request date.

If MHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, MHA will request pay stubs covering the 60-day period prior to the request.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA 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.
PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

MHA Policy
MHA 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 MHA.

Oral Third-Party Verification [Notice PIH 2010-19]
For third-party oral verification, PHAs 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.

PHAs 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.

MHA Policy
In collecting third-party oral verification, MHA 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, MHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]
Third-party verification may not be available in all situations. 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.

MHA Policy
If the family cannot provide original documents, MHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

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
The PHA 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].
MHA Policy
MHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

7-I.E. SELF-CERTIFICATION

Self-certification, or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

When the PHA 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.

MHA 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 MHA.

MHA 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 the MHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a MHA representative or notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

MHA Policy
MHA will require families to furnish verification of legal identity for each household member.

<table>
<thead>
<tr>
<th>Verification of Legal Identity for Adults</th>
<th>Verification of Legal Identity for Children</th>
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</thead>
<tbody>
<tr>
<td>Certificate of birth, naturalization papers</td>
<td>Certificate of birth</td>
</tr>
<tr>
<td>Church issued baptismal certificate</td>
<td>Adoption papers</td>
</tr>
<tr>
<td>Current, valid driver's license or</td>
<td>Custody agreement</td>
</tr>
<tr>
<td>Department of Motor Vehicle identification card</td>
<td>Health and Human Services ID</td>
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<tr>
<td>U.S. military discharge (DD 214)</td>
<td>School records</td>
</tr>
<tr>
<td>U.S. passport</td>
<td></td>
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<tr>
<td>Employer identification card</td>
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</tbody>
</table>

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.
If none of these documents can be provided and at MHA's discretion, a third party who knows
the person may attest to the person's identity. The certification must be provided in a format
acceptable to MHA and be signed in the presence of a MHA representative or notary public.
Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2010-3]
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.
The PHA 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, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

The PHA 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, or is not
legible, or if the document appears to be forged.

**MHA Policy**

MHA 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 MHA
within 90 days.

When the 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. The PHA 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 the PHA determines that the resident's failure to comply was due to unforeseen
circumstances and was outside of the resident's control. During the period the PHA is awaiting
documentation of the SSN, the child will be counted as part of the assisted household.

**MHA Policy**

MHA 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.

MHA Policy
MHA 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," MHA should remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

MHA Policy
Once an individual's status is classified as "verified" in HUD's EIV system, MHA will remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

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.

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

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS
Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

MHA 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

MHA Policy
Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a marital relationship, MHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.
In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

**Separation or Divorce**

**MHA Policy**

Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a separation or divorce, MHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

**DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

It is the responsibility of the head of household to report changes in family composition within ten (10) days of the change. MHA will evaluate absences from the unit using the following policy. MHA must compute all applicable income of every adult family member who is on the lease, including those who are temporarily absent. In addition, MHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

If the head or spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

Temporarily absent is defined as away from the unit for more than 30 days. Income from a temporarily absent member will be included when calculating the rent. Income of persons permanently absent will not be counted.

**Reporting Absences to MHA**

If a family member leaves the household, the family must report this change to MHA, in writing, within ten days of the change and certify as to whether the member is temporarily absent or permanently absent.

MHA will conduct an interim evaluation for changes that affect the TTP in accordance with the Interim Policy. **Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit. "Absent" means that no family member is residing in the unit, but the family has not moved out of the unit.

In order to determine if the family is absent from the unit, MHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Conduct an inspection

Families must notify MHA if they are going to be absent from the unit for more than thirty (30) consecutive days. If the entire family is absent from the assisted unit for more than 30 consecutive days, the unit will be considered to be vacated and proper legal methods will be used to return the unit to MHA.

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar day's limit.

**Absence of Adult Member**

**MHA Policy**

Any member of the household will be considered permanently absent if s/he is away from the unit for 6 consecutive months except as otherwise provided in this Chapter.

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).

If a parent (or head of household) does not remain in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, MHA will treat that adult as a visitor for the first 30 days.

If the appropriate agency cannot confirm the guardianship status of the caretaker, MHA will review the status at 30-day intervals. If the court has not awarded custody or legal guardianship, but the action is in process, MHA will secure verification from social services staff or the attorney as to the status. MHA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 60 days and it is reasonable to expect that custody will be granted.

When MHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition.

If a member of the household is subject to a court order that restricts him/her from the home for more than 30 days, the person will be considered permanently absent.

If an adult family member leaves the household for any reason, the family must report the change in family composition to MHA within 10 days.

The family will be required to notify MHA in writing within 10 days when an adult family member moves out. The notice must contain a certification by the family as to whether the adult is temporarily or permanently absent. The family member will be determined permanently absent if verification is provided.

Time extension will be granted as an accommodation upon request by a person with a disability.
If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, MHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent. As long as the rent is paid the unit can be maintained for the resident. Up to 90 days is allowed if the member is in a treatment program.

If the person who is determined to be permanently absent is the sole member of the household, the unit must be returned pursuant to MHA's "Absence of Entire Family" policy.

Absence due to Incarceration

If the sole member is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 30 consecutive days.

MHA will determine if the reason for incarceration is for drug-related or violent criminal activity. If it is so determined, the family member or the entire family depending on the circumstances will be evicted.

Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, MHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than eighteen months from the date of removal of the child/ren, the unit size will be reduced and the resident must take the first available unit of the correct size. If any children are removed from the home permanently, the bedroom size will be reduced in accordance with MHA's subsidy standards, and the resident must take the first available unit of the correct size.

Full-Time Students

Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, and the member will not be included on the lease.
**Reporting Additions to MHA**

Reporting changes in household composition to MHA must be made in compliance with the lease provision requirements regarding adding household members. [See Dwelling Lease]

If the family does not obtain prior written approval from MHA, any person the family has permitted to move in will be considered an unauthorized household member.

Families are required to report any additions to the household in writing to MHA within 10 days of the move-in date.

An Interim Reexamination will be conducted for any additions to the household.

**Foster Children and Foster Adults**

MHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

Visitors

Any adult not reported as a member of the household who has been in the unit more than 30 consecutive days, or a total of 45 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a family member. Statements from neighbors will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and MHA may terminate the lease since prior approval was not requested for the addition, or add the individual to the lease and charge retroactive rent.

Minors and college students who are permanently absent (see Absence of Adult, above) may visit for up to 30 consecutive days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

**7-II.E. VERIFICATION OF STUDENT STATUS**

MHA Policy

The PHA 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

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

MHA Policy

For family members claiming disability who receive disability payments from the SSA, MHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, MHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, MHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to MHA.

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 waiting list preferences or certain income disallowances and deductions.
For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

MHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless MHA receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.
For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS
The PHA must verify any preferences claimed by an applicant.

**MHA Policy**

MHA offers a preference for working families, described in Section 4-III.B.

MHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

MHA may also seek third party verification from the employer of the head, spouse, co-head or sole member of a family requesting a preference as a working family.

**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 PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

**Tips**

**MHA 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.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

**MHA 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.

MHA 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, MHA 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, MHA 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 (12) months MHA 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

Social Security/SSI Benefits

MHA Policy

To verify the SS/SSI benefits of applicants, MHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, MHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to MHA.

To verify the SS/SSI benefits of residents, MHA will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, MHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, MHA will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to MHA.

7-III.D. ALIMONY OR CHILD SUPPORT

MHA Policy

The way MHA 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.

Copy of the receipts and/or payment stubs for the 60 days prior to MHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support
Family's self-certification of amount received 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. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

**MHA Policy**

MHA will verify the value of assets disposed of only if:

- MHA 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.

*Example 1:* An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

*Example 2:* A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

**MHA 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, the PHA 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

MHA Policy

MHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, MHA 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, MHA 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, MHA 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.

The PHA must obtain verification for income exclusions only if, without verification, the PHA 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, the PHA will confirm that PHA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

MHA Policy

MHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the PHA will report the amount to be excluded as indicated on documents provided by the family.

7-111.1. ZERO ANNUAL INCOME STATUS

MHA Policy

MHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.
PART IV: VERIFYING MANDATORY DEDUCTIONS 7-

IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA 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. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

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. The PHA will verify that the head, spouse, or cohead 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

MHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

MHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.
Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA 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 the PHA'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.

MHA 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

MHA Policy
When anticipated costs are related to on-going payment of medical bills incurred in past years, MHA 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

MHA Policy
MHA will accept written third-party documents provided by the family.

If family-provided documents are not available, MHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.
Third-party verification form signed by the provider, if family-provided documents are not available.
If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

**Auxiliary Apparatus**

**MHA Policy**

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the **upcoming 12 months**.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA 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. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

**MHA Policy**

MHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense 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.

**MHA Policy**

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA 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.

**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. The PHA 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.

**MHA Policy**

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**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

**MHA Policy**

*Information to be Gathered*

MHA 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, MHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, MHA will request
family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, MHA will provide the family with a form on which the family member must record job search efforts. MHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

MHA Policy

MHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

MHA 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).

MHA 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.

MHA Policy

The actual costs the family incurs will be compared with MHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, MHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.
Exhibit 7-1: Summary of Documentation Requirements for Noncitizens

[HCV GB, pp. 5-9 and 5-10]

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form 1-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form 1-94 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 1-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
- Form 1-688 Temporary Resident Card annotated "Section 245A" or Section 210".
- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.
Chapter 8

LEASING AND INSPECTIONS
[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD’s regulations.

HUD rules also require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the PHA’s policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes the PHA’s policies for inspecting dwelling units.

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 also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the PHA’s policies governing leasing issues.

8-I.B. LEASE ORIENTATION

MHA Policy

After unit acceptance but prior to occupancy, an MHA representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

MHA Policy

When families attend the lease orientation, they will be provided with:

A copy of the lease
A copy of the grievance procedure
A copy of the general rules
A copy of the MHA’s schedule of maintenance charges
A copy of the pamphlet *Protect Your Family From Lead in Your Home*

A copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

A copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 14-VII.C)

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- The PHA’s reporting requirements
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections

**8-I.C. EXECUTION OF LEASE**

The lease must be executed by the tenant and the PHA, 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 PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-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.

**MHA Policy**

The head of household, spouse or cohead, 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 MHA will retain a copy in the resident’s file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to MHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.
8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

MHA may modify its lease from time to time. However, MHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. MHA 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 the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

MHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family’s tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

MHA Policy

When MHA proposes to modify or revise schedules of special charges or rules and regulations, MHA will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

MHA 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 MHA will be required to initial and date the change.

If a new household member is approved by MHA to reside in the unit, the person’s name and birth date will be added to the lease. The head of household and MHA will be required to initial
and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 10, ANNUAL AND INTERIM REEXAMINATIONS.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month’s rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

MHA Policy

Residents must pay a security deposit to MHA at the time of admission. The amount of the security deposit will be equal to the family’s total tenant payment (TTP) or $300, whichever is greater, at the time of move-in and must be paid in full prior to occupancy.

MHA will hold the security deposit for the period the family occupies the unit. MHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, MHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

MHA will provide the resident with a written list of any charges against the security deposit within 21 business days of the move-out inspection. If the resident disagrees with the amount charged, MHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, MHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the “old” 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 the PHA 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 the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

MHA Policy

The tenant rent is due and payable at MHA-designated location on the first (1st) of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family’s tenant rent changes, MHA 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.
**Late Fees and Nonpayment**

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA 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)].

**MHA Policy**

If the family fails to pay their rent by the seventh day of the month, and the PHA has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the seventh day of the month, a **late fee of $15.00** will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA may **not take action for nonpayment of the fee until the conclusion of the grievance process**. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis. Late fees will be assessed on late payment of rent and no other charges.

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 $25.00** will be charged to the family. The fee will be due and payable 14 days after billing.

**Payment Application**

**Payments received by MHA will be applied to the tenant account in the following order:**

1. **Security Deposits** (For more information about security deposits, refer to Section I.E of this chapter and Chapter 9- Pet Policy).

2. **Rent** (For information on income-based rent, see Chapter 3 Eligibility and Chapter 7).

3. **Retroactive Rents** (for information about retroactive rent and repayment agreements please see Chapter 7 Determination of Total Tenant Payment, Chapter 10 Annual and Interim Recertification and Chapter 14 Program Administration and Dwelling Lease Section 3.B.)

4. **Late Fees**

5. Repayment Agreement or Stipulated Judgment (For more information on repayment agreements, refer to Chapter 14 Program Administration).

6. **Maintenance Charges** (For more information about maintenance charges, refer to Section I.F of this Chapter, Schedule of Special Charges, and the Dwelling Lease).
MHA must apply all tenant payments to rent where tenants indicate in writing, on a check, money order or otherwise, that such payment should be applied to rent, or where the tenant pays the exact amount due for monthly rent, even without making a specification.

Receipts

Upon request, MHA will provide receipts to tenants for payments made in person at MHA offices, but not if a receipt is not requested or such payments are made by dropping them in the in-box at MHA offices.

Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA 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)].

MHA Policy

When applicable, families will be charged for maintenance and/or damages according to MHA’s current 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 charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable two weeks after MHA gives written notice of the charges. If the family requests a grievance hearing within the required timeframe, MHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA
Policy. This part contains the PHA’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 must require the PHA 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 the PHA and the resident, must be provided to the tenant and be kept in the resident file.

MHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

The PHA 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 the PHA. The PHA 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.

MHA Policy

When applicable, MHA 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 [24 CFR 5.705]

The PHA is required to inspect all occupied units annually using HUD’s Uniform Physical Condition Standards (UPCS). Under the Public Housing Assessment System (PHAS), HUD’s physical condition inspections do not relieve the PHA of this responsibility to inspect its units [24 CFR 902.20(d)].

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.

MHA Policy

Supervisory quality control inspections will be conducted in accordance with the PHA’s maintenance plan.

Special Inspections

MHA Policy

PHA staff may conduct a special inspection for any of the following reasons:

Housekeeping
Unit condition
Suspected lease violation
Preventive maintenance
Routine maintenance
There is reasonable cause to believe an emergency exists

Other Inspections

MHA Policy
Building exteriors, grounds, common areas and systems will be inspected according to MHA’s maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]
The PHA 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 the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

MHA Policy
MHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.
For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.
Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the PHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]
The PHA 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, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

MHA Policy
Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify MHA at least 24 hours prior to the scheduled inspection. MHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. MHA may request verification of such cause.

Attendance at Inspections
Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.
MHA 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 copy of the inspection report in the unit.

8-II.D. INSPECTION RESULTS

The PHA is obligated to maintain dwelling units and the project in 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 the PHA of the damage, and the PHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA 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.

MHA Policy

When conditions in the unit are hazardous to life, health, or safety, MHA 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

MHA Policy

MHA will correct non-life threatening health and safety defects within 15 business days of the inspection date. If MHA is unable to make repairs within that period due to circumstances beyond the PHA’s control (e.g. required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

Resident-Caused Damages

MHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

MHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, MHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 12.

Notices of lease violation will also be issued to residents who purposely disengage the unit’s smoke detector. Only one warning will be given. A second incidence will result in lease termination.
Chapter 9
PET POLICY

Section 526 of the "Quality Housing and Work Responsibility Act of 1998" (QHWRA) provides for the ownership of pets in federally-assisted rental housing "in accordance with applicable State and local public health regulations." Section 19901 of the California Health and Safety Code provides that, "Notwithstanding any other provision of law, no public agency which owns and operates rental housing accommodations shall prohibit the keeping of not more than two pets by the elderly in such rental housing accommodations."

Accordingly, it is the Policy of the Authority to allow pets under the circumstances provided below.

A tenant may have up to two animals and one fish aquarium. No dogs of any breed are allowed in public housing unless:

1. The tenant resides in an elderly/disabled development; or

2. The tenant is 62 years or older or disabled and living in a family development and requires supportive services as defined in California Health and Safety Code section 50685.5.

Definition

The term "Pets" is limited to the following domesticated, common household animals: cats, dogs, birds, fish, hamsters. Only one fish aquarium, which shall not exceed 25 gallons, may be kept. Dogs and cats must be spayed or neutered. The maximum weight for any dog, except service dogs, is 20 pounds.

Types of Pets Allowed

No types of pets other than the following may be kept by a resident. A resident may only have one dog or one cat.

Dogs
Residents may only have one dog, with a maximum adult weight of 20 pounds. The dog must be housebroken, be spayed or neutered, have all required inoculations, and be licensed as specified now or in the future by State law and local ordinance.

Cats
Residents may have only one cat, to be kept indoors, which must be spayed or neutered, have all required inoculations, be trained to use a litter box or other waste receptacle, and be licensed as specified now or in the future by State law or local ordinance.

Birds
Residents may have only 2 birds, which must be enclosed in a cage at all times, except for brief exercise periods within the resident's unit. Large parrots and other such large birds are not allowed (due to probable noise and destruction or property problems).
Fish
The maximum aquarium size allowed is 10 gallons, which must be maintained on an approved stand.

Rodents

Only rabbits, guinea pigs, hamsters, or gerbils are allowed, and only a maximum of two. Care must be taken to avoid their reproducing. The animals must be enclosed in an acceptable cage at all times. They must have any or all inoculations as specified now or in the future by State law or local ordinance.

Turtles
Residents may have only 2 turtles, which must be enclosed in an acceptable cage or container at all times.

MHA does not allow pot-bellied pigs, iguanas, snakes, alligators, or any other animal not specifically listed above.

Application

Prior to housing any pet on premises owned and/or operated by the Housing Authority. A tenant shall apply to the MHA for a permit to do so. The application must be accompanied by the following:

1. A full pet deposit of $100 per pet or fish aquarium. This deposit is refundable after the tenant disposes of the pet or aquarium or vacates and if MHA verifies that there are no expenses directly attributable to the presence of the pet. However, for expenses exceeding the deposited amount, the household shall be responsible to reimburse the PHA for those costs. The pet deposit does not apply to service animals.

2. A current dog license issued by the Marin Humane Society

3. Signed veterinarians' statement verifying that the animal is in good health, has no communicable has no communicable diseases or pests, and, in the case of cats and dogs, is spayed or neutered.

4. Evidence that the pet has received all current inoculations or boosters including parvovirus, distemper, hepatitis, leptospirosis, feline distemper, rhino tracheitis, calcivirus, and pneumonitis must be provided.

5. A signed statement from the Tenant acknowledging that he/she has received and read the Pet Rules and agrees to comply with them and accept any and all financial and personal liability associated with the personal pet ownership in the housing project.

6. A color picture of the pet, except for fish, must be provided both at the time of application and when the pet reaches adult size.
Approval of Pet Application

Once all of the conditions for application for pet ownership permit have been met, the Property Manager shall make a decision on the resident's application within five (5) working days. If approved, the resident will be informed in writing. The Property Manager may re-validate the pet ownership permit at each subsequent annual re-certification as long as the tenant continues to follow the guidelines established in this Pet Policy. Failure to re-validate the pet ownership permit shall result in the removal of the pet or termination of the Tenant's tenancy or both.

Refusal of Pet Application

MHA may refuse, subject to the Grievance Procedure and Pet Policy, to approve a pet application due to the following reasons:

1. The animal does not meet the definition of pet.
2. Tenant fails to provide complete application information required by the Pet Ownership Policy.

Revoking Pet Ownership

Maintaining a pet in a facility owned and/or operated by the Marin Housing Authority shall be subject to the rules set forth herein. The Tenant's pet ownership may be revoked at any time, subject to MHA's Grievance Procedure, due to any of the following reasons:

1. Management determines that the pet is not properly cared for
2. The pet presents a threat to the safety and security of other tenants, MHA employees, contractors and others on the premises.
3. The pet is destructive or causes an infestation.
4. The pet disturbs other tenants for reasons including but not limited to noise, odor, cleanliness, and sanitation.
5. Tenant fails to re-validate the pet ownership permit as required in the Pet Ownership Policy.

Rules

All tenants allowed to keep a pet shall comply with the following rules:

In the case of dogs, proof that the pet is currently licensed must be provided annually.
Evidence that the pet has received all current inoculations or boosters including rabies parvovirus, distemper, hepatitis, leptospirosis, feline distemper, rhino tracheitis, calcivirus, and pneumonitis must be provided annually.

No pet may be kept in violation of State law or local ordinances with respect to humane treatment or health.

If pets are left unattended for a period of ten (10) hours or longer, the Management may enter the dwelling unit to remove the pet. The Management will transfer the pet to the proper authorities, subject to the provisions of California State law and pertinent local ordinances. PHA accepts no responsibility for the animal under such circumstances.

No animal shall be kept, raised, or bred for any commercial purpose.

Dogs and cats must wear identification tags specifying resident's name and apartment number.

All pets shall remain inside the Tenant's dwelling unit. No animal shall be permitted in laundry rooms, hallways, community rooms, public restrooms, or other designated common areas unless to allow for ingress and egress to the building. Pets must be leashed or carried at all times while in elevator.

When taken outside the unit, dogs and cats must be kept on a leash, no longer than six (6) feet, controlled by a responsible individual. No animal may be leashed to any stationary object outside the Tenant's apartment.

Birds must be confined to a cage at all times.

Vicious and/or intimidating dogs or animals with a past history of attack or aggressive behavior towards other animals or people will not be allowed.

**NOISE**

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.

If there are three verifiable nuisance complaints received with regard to any animal within a 36 month period, the owner will have two weeks to find another home for the animal. Failure to remove the pet will constitute a material breach of the lease and result in eviction of the family. Tenants must provide litter boxes, which must be kept in the dwelling unit for cat waste. Tenants shall not permit refuse from litter boxes to accumulate nor to become unsightly or unsanitary. Litter shall be changed (or scooped) not less than once a week and placed in a plastic bag, properly disposed of by
being placed in a trash container outside of the building, and at no time washed down any drains or flushed down any toilets. Pet waste may not be put down the garbage chutes.

Tenants shall take adequate precautions and measures necessary to eliminate pet odors within or around the unit and shall maintain the unit in a sanitary condition at all times.

Tenants are responsible for cleaning up pet waste from their pet both inside and outside the dwelling unit and on facility grounds. Waste must be disposed of by being placed in a sealed plastic bag and then placed in a trash container outside of the building. At no time is pet waste washed down any drains or flushed down any toilets. Pet waste may not be put down the garbage chutes.

Tenants shall not alter their dwelling unit, patio, or unit area in order to create an enclosure for any pet. No doghouses, animal runs, etc. will be permitted.

Tenants are responsible for all damages caused by their pets including the cost of professional cleaning of carpets and/or fumigation of units.

**PET AREA RESTRICTIONS**

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

The following areas are designated no-pet areas:
- patios in high-rises
- the courtyard
- playgrounds
- lawns

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.

Residents/Pet Owners are not permitted to exercise pets or permit pets to deposit waste on project premises. See Item 7. of the Pet Rules and Regulations addendum to the lease which provides:

- All dogs must be kept on leashes when not in resident apartments and not allowed to waste on lawn or decks but escorted by leash to street gutters or the woods for this purpose.

Tenants are prohibited from feeding or harboring stray animals. The feeding of stray animals shall constitute having a pet without the written permission of the MHA.

Guests may not bring pets (any type) onto the premises. No pet sitting will be allowed.

**Animals that Assist the Disabled**

1. Elderly/disabled tenants must still comply with all aspects of this Pet Policy
2. Dogs, which must be specifically trained and currently used to assist blind, deaf, or physically disabled individuals, may be allowed in units with an elderly/disabled individual. The tenant must submit documentation to the property office of each dog's training or certification for the purpose of assisting disabled individuals.

3. To determine that a dog may be allowed into family housing development, the head of household must provide a written certification, from a licensed medical doctor on a form provided by the PHA, that a member of the household has a disability and requires the assistance of an animal as either a service or companion animal.

Violation of Pet Policy

Violation of this Pet Policy may be grounds for removal of the pet or termination of the tenant's lease, or both.

1. Any pet not permitted under this policy shall be permanently removed from MHA property within 30 days, during which time any such animal may be surrendered to an animal shelter or otherwise permanently removed at the owner's expense.

2. If the pet is removed, either a receipt from an animal shelter or notarized letter from the new owner verifying that the pet resides at a new address will be required.

3. If the tenant refuses to permanently remove the pet, the lease termination process will be initiated in accordance with procedures set forth in the Rental Agreement and State law.
Chapter 10

REEXAMINATIONS


INTRODUCTION

The PHA is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. PHAs must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA 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.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

10-I.A. OVERVIEW

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual
reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The PHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the PHA's policies for conducting annual reexaminations.

104.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

**MHA Policy**

Generally, MHA will schedule annual reexaminations to coincide with the family's anniversary date. MHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, MHA will perform a new annual reexamination, and the anniversary date will be changed.

MHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

**Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

**MHA Policy**

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MHA to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the PHA will send a second notification with a new interview appointment time.
If a family fails to attend two scheduled interviews without MHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 12.

An advocate, interpreter, or other assistant may assist the family in the interview process.

10-LC. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

MHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a MHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days 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.

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 12.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual 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 11.
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.

MHA 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.

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 17 for the PHA's policies governing compliance with the community service requirement.

10-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

MHA Policy

In general, an **increase** in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, **increases** in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual 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 an annual reexamination will take effect on the family's anniversary date.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, **decreases** in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.
PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS
[24 CFR 960.257(2)]

10-ILA. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the PHA must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

10-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

MHA Policy

For families paying flat rents, MHA will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

MHA Policy

In conducting full reexaminations for families paying flat rents, MHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 10-I.B through 10-I.D above.

10-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The PHA 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)].
MHA Policy
For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, MHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 10-I.B. above.

Conducting Annual Updates
The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

MHA Policy
Generally, the family will not be required to attend an interview for an annual update. However, if MHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to MHA. The family will have 10 business days to submit the required information to MHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. MHA will accept required documentation by mail, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, MHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to MHA.

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 12.

Change in Unit Size
Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 11.

Criminal Background Checks
Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 12-IV.B.

MHA Policy
Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service
For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].
See Chapter 17 for the PHA's policies governing compliance with the community service requirement.

**PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]**

10-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. BUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

10-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA 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, the PHA 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.

**MHA Policy**

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

MHA will conduct interim reexaminations to account for any changes in household composition that occur between annual 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 PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

**MHA Policy**

The family must inform the PHA 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 PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].
The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA 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.
- The PHA's obligation to make reasonable accommodation for persons with disabilities. **MHA Policy**

Families must request MHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

MHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 11), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by MHA. Exceptions will be made on a case-by-case basis.

**MHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).**

If MHA determines that an individual does not meet MHA's eligibility criteria or documentation requirements, MHA 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.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

**Departure of a Family or Household Member**

**MHA Policy**

If a family member ceases to reside in the unit, the family must inform MHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform MHA within 10 business days.

**10-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA 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, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.
MHA Policy
This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

PHA-initiated Interim Reexaminations
PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

MHA Policy
MHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MHA 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 phase-in period).

If the family has reported zero income, MHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), MHA 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 annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, MHA will conduct an interim reexamination.

MHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations
The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting
HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

MHA Policy
Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

MHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, MHA will note the information in the tenant file, but will not conduct an interim reexamination.
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)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's 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.

**MHA 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, MHA 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, MHA will conduct an interim reexamination. See Section 10-III.D. for effective dates.

Families may report changes in income or expenses at any time.

**10-III.D. PROCESSING THE INTERIM REEXAMINATION**

**Method of Reporting**

**MHA Policy**

The family will notify MHA of changes in writing by completing the Interim Re-Exam Form. Generally, the family will not be required to attend an interview for an interim reexamination. However, if MHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, MHA 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 MHA. This time frame may be extended for good cause with MHA approval. MHA will accept required documentation by mail, by fax, or in person.

**Effective Dates**

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

**MHA 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 14.

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. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

**PART IV: RECALCULATING TENANT RENT**

10-IV.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.


The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

**MHA Policy**

Unless the PHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

10-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the PHA 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 the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

**MHA Policy**

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.
10-IV.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.
Chapter 11

TRANSFER POLICY

INTRODUCTION
This chapter explains MHA's transfer policy, based on HUD regulations, HUD guidance, and MHA policy decisions.

This chapter describes HUD regulations and MHA policies related to transfers in four parts:

- **Part I: Emergency Transfers.** This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

- **Part II: MHA Required Transfers.** This part describes types of transfers that may be required by MHA, 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.

MHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

MHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

11-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occupancy Guidebook, p. 1471. The emergency transfer differs from a typical transfer in that it requires immediate action by MHA.

In the case of a genuine emergency, it may be unlikely that MHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, MHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.
11-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, MHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

11-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, MHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, MHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant.

11-I.D. COSTS OF TRANSFER

MHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions. (This must be approved by the Executive Director or designee)

MHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, MHA will collect information from companies in the community that provide these services.

MHA will reimburse the family for eligible out-of-pocket moving expenses up to MHA's established moving allowance.

PART II: MHA REQUIRED TRANSFERS

11-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to MHA to develop reasonable transfer policies.

MI-IA may require that a resident transfer to another unit under some circumstances. For example, MHA may require a resident to transfer to make an accessible unit available to a
disabled family. MHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a MHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by MHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

11-II.B. TYPES OF MHA REQUIRED TRANSFERS

The types of transfers that may be required by MHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by MHA are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, MHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

When a non-accessible unit becomes available, MHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. MHA 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.

Occupancy Standards Transfers

MHA 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 over-housed according to MHA policy [24 CFR 960.257(a)(4)]. On some occasions, MHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

MHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on MHA’s occupancy standards as described in Section 5-I.B.

MHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on MHA’s occupancy standards, when MHA determines there is a need for the transfer.

MHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by MHA that a transfer
is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit MHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

MHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. MHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

1141.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A MHA 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, MHA may not take action on the transfer until the conclusion of the grievance process.

PART III: TRANSFERS REQUESTED BY TENANTS

11-III.A. OVERVIEW

HUD provides MHA with discretion to consider transfer requests from tenants. The only requests that MHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of MHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by MHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

11-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfers that MHA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to MHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by MHA.

MHA will consider the following as high priority transfer requests:
When a transfer is needed to alleviate 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 MHA'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.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

MHA will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet MHA's definition of overcrowded, as long as the family meets MHA's occupancy standards for the requested size unit.

Transfers requested by the tenant are considered optional for the tenant.

**III.C. ELIGIBILITY FOR TRANSFER**

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, MHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

Except where reasonable accommodation is being requested, MHA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety or residents and staff
- Owe no back rent or other charges, or have a pattern of late payment
- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-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 may be made when it is to MHA's advantage to make the transfer. Exceptions may also be made when the PHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, or stalking and who provides documentation of abuse in accordance with section 14-VILD 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.

11-III.D. SECURITY DEPOSITS
When a family transfers from one unit to another, MHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

11-III.E. COST OF TRANSFER
The resident will bear all of the costs of transfer s/he requests. However, in cases of documented financial hardship, MHA will consider assuming the transfer costs when the transfer is done as a reasonable accommodation.

11-III.F. HANDLING OF REQUESTS
Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.
In case of a reasonable accommodation transfer, MHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, MHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.
MHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, or stalking in accordance with section 14-VII.D of this ACOP.
If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.
MHA will respond within ten (10) business days of the submission of the family's request. If MHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

11-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.

11-IV.B. TRANSFER LIST
MHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.
Emergency transfers will not automatically go on the transfer list. Instead emergency transfers
will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other MHA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director, MHA 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 MHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

11-IV.C. TRANSFER OFFER POLICY

Residents will receive one offer of a transfer.

When the transfer is required by MHA, 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 a period of one (1) year to reapply for another transfer.

11-IV.D. GOOD CAUSE FOR UNIT REFUSAL

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

The family demonstrates to the MHA’s satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
The family demonstrates to MHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 14-VH.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

MHA will require documentation of good cause for unit refusals.

11-IV.E. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.
Chapter 12

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. 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, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The PHA may 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 some reasons for which a PHA can terminate a family's lease, and give PHAs authority to determine other reasons.

When determining PHA policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and PHA's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the PHA places upon families who wish to terminate their lease.

Part II: Termination by PHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the PHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.

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

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.
PART I: TERMINATION BY TENANT

12-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 project office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

MHA Policy

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

The notice of lease termination must be signed by the head of household, spouse, or co-head.

PART II: TERMINATION BY PHA — MANDATORY

12-II.A. OVERVIEW

HUD requires the PHA to terminate the lease in certain circumstances. In other circumstances HUD requires the PHA to establish provisions for lease termination, but it is still a PHA option to determine, on a case-by-case basis, whether termination is warranted. For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

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

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

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

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.
12-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS
[24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2010-3]

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

MHA Policy

MHA 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.

See Chapter 7 for a complete discussion of documentation and certification requirements.


The PHA **must** terminate the lease if the family fails to accept the PHA’s offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

12-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(1)(5)(i)(A)]

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 12-111.B. below for the HUD definition of premises.
12-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(1)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (C)]

The PHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 17.

12-II.H. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2010-3]

The PHA must immediately terminate program assistance for deceased single member households.

PART III: TERMINATION BY PHA — OTHER AUTHORIZED REASONS

12-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA 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 PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must make policy decisions concerning these options.

In addition, HUD authorizes PHAs 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. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA 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 PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

12-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(1)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
Dating violence is defined in section 14-VII B.

Domestic violence is defined in section 14-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 PHA-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].

Immediate family member is defined in section 14-VII.B

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.

Stalking is defined in section 14-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(I)(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.

MHA Policy

The PHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

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

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.
Illegal Use of a Drug [24 CFR 966.4(1)(5)(0(B)]

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

**MHA Policy**

MHA will terminate the lease when MHA determines that a household member is illegally using a drug or MHA 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.

MHA 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.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 12-III.D and other factors as described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(1)(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 **MHA management staff residing on the premises**) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

**MHA Policy**

MHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents **(including MHA management staff residing on the premises)** or by persons residing in the immediate vicinity of the premises.

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

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

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 12-III.D and other factors as described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(1)(5)(vi)(A)]

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

MHA will terminate the lease if MHA 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.

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

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 12-III.D and other factors as described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, MHA 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(1)(5)(vi)(B)]

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

MHA Policy

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

MHA 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, MHA will consider alternatives as described in Section 12-III.D and other factors as described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, MHA 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(1)(2)(i) and 24 CFR 966.4(0)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c) (1)].

MHA Policy

MHA 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.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by the MHA for the benefit and well-being of the housing project and the tenants, which shall be posted in the PROPERTY 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

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 12-III.D and other factors as described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, the MHA may, on a case-by-case basis, choose not to terminate the lease.

**12-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(1)(2) and (5)(ii)(B)]**

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."
Other Good Cause [24 CFR 966.4(1)(2)(ii)(B) and (C)]

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Act of 2005 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence. [24 CFR 5.2005 (c) (1)]

MHA Policy

MHA will terminate the lease for the following reasons.

*Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

*Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery 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 the PHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size

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

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

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

Failure to abide by the provisions of MHA pet policy

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

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 or abusive behavior toward MHA personnel.

*Abusive or violent behavior towards MHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
**Threatening** refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 12-III.D and other factors described in Sections 12-III.E and 12-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

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

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

**MHA Policy**

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

The family must promptly notify MHA 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, MHA will terminate the lease for other good cause.

**Abandonment.** If the family appears to have vacated the unit without giving proper notice, MHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, MHA will secure the unit immediately to prevent vandalism and other criminal activity.


Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the PHA 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 PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income-eligible.

**MHA Policy**

MHA will not evict or terminate the tenancies of families solely because they are over income.
1241.I.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(1)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used, by PHA policy, for any other reason where such a solution appears viable.

**MHA Policy**

MHA 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 MHA request.

Repayment of Family Debts

**MHA Policy**

If a family owes amounts to MHA, as a condition of continued occupancy, MHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from MHA of the amount owed. See Chapter 14 for policies on repayment agreements.

12-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

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

**MHA Policy**

MHA 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(1)(5)(vii)(B)]**

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

**MHA Policy**

MHA will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 12-III.F) a victim of domestic violence, dating violence, 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 MHA's failure to terminate the tenancy
- The effect of MHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

**Consideration of Rehabilitation [24 CFR 966.4(1)(5)(vii)(D)]**

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

**MHA 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, MHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.
For this purpose, MHA will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]

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

**MHA Policy**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, MHA will determine whether the behavior is related to the disability. If so, upon the family's request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

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

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

12-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2005 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, or stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 14-VII of this ACOP, where definitions of key VAWA terms are also located.

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

VAWA provides that "criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy, occupancy rights of, or assistance to the victim if the tenant or immediate family member of the tenant is the victim.[24 CFR 5.2005( c)(1)]

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

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

While VAWA prohibits a PHA from using domestic violence, dating violence, 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 a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.**
VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

**MHA Policy**

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, MHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest MHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

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

**MHA Policy**

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 14-VILD of this ACOP. MHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.
**Terminating or Evicting a Perpetrator of Domestic Violence**

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant."

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA 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 the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

**MHA Policy**

MHA will bifurcate a family's lease and terminate the tenancy of a family member if MHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, MHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to MHA by the victim in accordance with this section and section 14-VI.D. MHA will also consider the factors in section 12.III.E. Upon such consideration, MHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If MHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, MHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, MHA may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

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

**12-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.
12-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

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

MHAPolicy

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

MHA may not pass along to the tenant the costs of a criminal records check.

12-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(t), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA 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 the PHA 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, the PHA 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.

MHAPolicy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, MHA 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 MHA notice, to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute the information within that 10 business day period, MHA 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.
12-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(1)(3)]

Timing of the Notice [24 CFR 966.4(1)(3)(i)]

If MHA terminates the tenancy, or otherwise seeks to recover possession of the dwelling unit, written notice will be given as follows:

1. Fourteen (14) days in the case of failure to pay Rent.

2. Three (3) days when the health or safety of other residents, MHA employees or contractors, persons on or near MHA property, or neighbors residing in the immediate vicinity of MBA property or any member of law enforcement agency, is threatened; or if the Tenant, any Household Member, guest or other person under the control of a Household Member, has engaged in any criminal or drug-related criminal activity; or if the Tenant, or any Household Member has been convicted of a felony; or if the Tenant or any Household Member has committed fraud.

3. 30 days in any other case, except that if a State or local law allows a shorter notice period, such shorter period shall apply.

A notice to quit or notice to vacate which is required by state law may be combined with, or run concurrently with, a notice of termination of tenancy required by federal law.

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 PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)]. When the PHA 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 the PHA'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 the PHA 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 the PHA 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 the PHA, or for a drug-related criminal activity on or off the premises.
Procedures for Serving Lease Termination Notices

Before transmitting any 14-day notices for alleged rent deficiencies, MHA must review the account of the tenant involved and assure that any such 14-day notice include a demand for only unpaid rent accrued within the past 12 months and late fees properly assessed on unpaid rent only.

In the event that the review of a tenant’s account identifies charges other than rent and late fees on rent owed by the tenant, MHA must provide the tenant with an invoice or other form of written notice for the amount of unpaid other charges, with payment due two after MHA gives written notice of the charge. Notice to a tenant shall be in writing and delivered to the tenant or to an adult member of the tenant’s household residing in the dwelling or sent by prepaid first-class mail properly addressed to the tenant. (See 24 CFR §966.4(k)(i) and the standard form MHA lease.) MHA may thereafter commence a proceeding in State court to evict the tenant for failure to pay such additional charges only following service of a 30-day notice on the tenant. (24 CFR §966.4(l)(3) (B) & (C).)

All MHA 14-day notices showing amounts MHA contends are due as rent must show a complete set of all tenant transactions over the time frame in which unpaid charges are set forth in the 14-day notice. If requested by the tenant, MHA must provide a print out of the tenant’s account ledger with MHA over the previous two years showing all amounts due for rent, late charges, charges other than rent, all payments made by the tenant during each month, all credits to the tenant’s accounts, all adjustments to or reversals of charges, all allocations of such payments by MHA, and a net total of rent charges allegedly due and owing.

All MHA 30-day notices for non-payment of charges other than rent must show all amounts due for charges other than rent during such period, all payments made by the tenant during such period, all credits to the tenant’s accounts due to such payments, all adjustments to or reversals of charges, and all allocations of such payments by MHA. If requested by the tenant, MHA must also attach a printout of the tenant’s account ledger with MHA over the previous two years.

MHA must hand deliver such notice to the tenant. If the tenant is absent from his or her place of residence, MHA must deliver such notice by leaving a copy with some person of suitable age and discretion at the place of residence and sending a copy through the mail addressed to the tenant at his or her place of residence. If tenant is absent from his or her place of residence and no other suitable person is there, then by affixing a copy in a conspicuous place on the property, and also sending through the mail to the tenant at his or her place of residence. The notice must be signed or initialed by the person who mailed or hand delivered the notice stating the notice was mailed or delivered on the date noticed on the notice.

All 14-day notices MHA serves for non-payment of rent shall include the following two statements: (a) “if you (the tenant) transmit a grievance to MHA concerning the claimed non-payment of rent within the fourteen (14) days of this notice, MHA cannot commence a state court proceeding to evict you from your apartment until the grievance process is completed and a final decision is issued pursuant to MHA’s grievance policy” (b) “you may request that MHA allow you to enter into a Repayment Agreement to pay what you owe over time, rather than face eviction, which MHA, at its sole discretion, may allow or disallow.”
All 30-day notices MHA serves for non-payment of charges other than rent shall include the following two statements: (a) “if you (the tenant) transmit a grievance to MHA concerning the claimed non-payment of charges other than rent within the fourteen (14) days of this notice, MHA cannot commence a state court proceeding to evict you from your apartment until the grievance process is completed and a final decision is issued pursuant to MHA’s grievance policy” (b) “you may request that MHA allow you to enter into a Repayment Agreement to pay what you owe over time, rather than face eviction, which MHA, at its sole discretion, may allow or disallow.”

No new 14-day or 30-day notices may be transmitted relating to an alleged debt of a tenant to MHA – nor Unlawful Detainer proceeding filed due to such an alleged debt – until the issuance of a final decision in any grievance proceeding filed concerning amounts allegedly due MHA from a tenant, as provided in MHA’s grievance policy and procedures contained in the ACOP.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking (see section 14-VII.C). Any family member 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, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in section 12-III.F. and 14-VII.D.

**Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(I)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]**

When the PHA 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 17-I.E.

**MHA 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 17-I.E. and will also serve as the notice of termination of tenancy.

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

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons
their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family’s eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family’s right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family’s right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA’s informal hearing procedures.
12-IV.E. EVICTION [24 CFR 966.4(1)(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. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

**MHA Policy**

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, MHA 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, MHA will seek the assistance of the court to remove the family from the premises as per state and local law.

MHA may not proceed with an eviction action if MHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(1)(3) and (m).

12-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(I)(5)(iii)(B)]

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

12-IV.G. RECORD KEEPING

**MHA Policy**

A written record of every termination and/or eviction will be maintained by MHA 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 dates, names of conference participants, and conclusions.
I. Hearing Request By Tenants

Grievances or appeals concerning the obligations of the tenant or MHA under the provisions of the lease shall be processed and resolved in accordance with the Grievance Procedure of MHA which is in effect at the time such grievance or appeal arises.

II. Definitions Applicable to the Grievance Procedure: (§ 966.53)

A. Grievance: Any dispute a Tenant may have with respect to Marin Housing Authority (MHA) action or failure to act in accordance with the individual Tenant's lease or MHA regulations that adversely affects the individual Tenant's rights, duties, welfare or status.

B. Complainant: Any Tenant (as defined below) whose grievance is presented to MHA (at the central office or the development office) in accordance with the requirements presented in this procedure.

C. Hearing Officer: A person selected in accordance with 24 CFR § 966.550 and this procedure to hear grievances and render a decision with respect thereto.

D. Tenant: The adult person (or persons other than a Live-in aide): (1) Who resides in the unit, and who executed the lease with MHA 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 the household of the Tenant family residing in the dwelling unit.

E. Resident Organization: An organization of residents, which also may include a recognized resident council and a Resident Management Corporation.

III. Applicability of this Grievance Procedure (966.51)

In accordance with the applicable Federal regulations (24 CFR § 966.50) this Grievance Procedure shall be applicable to all individual grievances (as defined in Section I above) between Tenant and the MHA with the following two exceptions:

A. Because HUD has issued a due process determination that the unlawful detainer law of the State of California provide the basic elements of due process before an eviction from the dwelling unit can occur, the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of MHA,

2. Any violent or drug-related criminal activity on or off MHA property; or

3. Any criminal activity that resulted in felony conviction of a household member. [966.51 (2)(i) (A) (B) and (C)]
B. The MHA Grievance Procedure shall not be applicable to disputes between Tenants not involving the MHA or to class grievances. The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the MHA's Board of Commissioners. [966.51 (b)]

This Grievance Procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations. [966.52 (b) and (d)]

Any changes proposed in this Grievance Procedure must provide for at least 30 days notice to Tenants and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the MHA before any revisions are made to the Grievance Procedure. [966.52 (c)]

IV. Informal Settlement of a Grievance [966.54]

Any grievance must be presented, either orally or in writing, to the MHA Central Office or the Golden Gate Village Office within fourteen (14) days after the grievable event. Notwithstanding anything to the contrary, a grievance must be presented, either orally or in writing, to the MHA Central Office or the Golden Gate Village Office within thirty (30) days if the grievance request is in response to a 30-day termination notice.

MHA must schedule and participate in an informal grievance meeting within fourteen (14) days of receipt of a request for a grievance by a tenant, unless MHA and the party – or any counsel of the party – agrees to a postponement of such hearing for no more than 14 additional days, or due to reasons outside of MHA's control (such as unavailability of the tenant, a family member, a key witness, or counsel, the tenant's need for additional time to produce evidence, act of God, etc.). In scheduling an initial grievance meeting, MHA must offer at least two possible dates and times for such a meeting during normal business hours. If the tenant responds by letter or phone before the initial date offered for such a meeting that the dates offered conflict with work, medical treatment, educational classes, childcare responsibilities, or other important personal matters, MHA must make best efforts to communicate with the tenant and set up an alternative date for the meeting acceptable to both the tenant, MHA and any counsel of the party.

Grievances related to complaints about operational matters that are received by the MHA's Central Office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Executive Director, or their designee.

As soon as the grievance is received, it will be reviewed by the management office of the development or to be certain that neither of the exclusions in paragraphs III.A. or III.B. above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to MHA's grievance procedure, with the reason.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time within fourteen (14) days to meet so the grievance may be discussed informally and settled without a hearing. At the Informal Hearing, the complainant will present the grievance to property management, MHA General Counsel, Deputy Director, or an MHA employee designated by the Deputy Director or General Counsel to hear the informal. The person hearing the informal will attempt to settle the grievance to the satisfaction of both parties.
Within fourteen (14) days following the informal discussion, MHA shall prepare and either hand deliver or mail to Tenant a summary of the discussion that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a Formal Hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary shall also be placed in Tenant's file. A receipt signed by the complainant or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal discussion. [966.55 (a)]

V. Formal Grievance Hearing

If the complainant is dissatisfied with the settlement arrived at the informal hearing, the complainant must submit a written request for a hearing to the management office of the development where the Tenant resides no later than fourteen (14) days after the summary of the Informal Hearing is received.

The written request shall specify:

- The reasons for the grievance;
- The action of relief sought from the Housing Authority; and
- Three dates and times in the following fourteen (14) days when the complainant can attend a Grievance Hearing.

If the complainant requests a hearing in a timely manner, the MHA shall schedule a hearing on the grievance at the earliest time possible for the complainant, MHA and the Hearing Officer, but in no case later than fourteen (14) days after MHA received the complainant's request.

If the complainant fails to request a hearing within fourteen (14) days after receiving the summary of the Informal Hearing, MHA's decision rendered at the Informal Hearing becomes final and the MHA is not obligated to offer the complainant a Formal Hearing unless the complainant can show good cause why he or she failed to proceed in accordance with this procedure. [966.55 (c) and (d)]

Failure to request a Grievance Hearing does not affect the complainant's right to contest the MHA's decision in a court hearing. [966-54 (c)]

VI. Expedited Hearing Process for Criminal Activities Not Involving Violence, Drugs, or Risk to Health or Safety

These modified and expedited procedures apply when the MHA has served a notice to terminate tenancy or otherwise initiate eviction proceedings, which is based on criminal activity which is not activity which threatens the health safety or right to peaceful enjoyment of the premises of other Tenants or employees of MHA; any violent or drug-related criminal activity on or off of MHA property; or any criminal activity that resulted in felony conviction of a household member,

Informal Hearing: The request for an Informal Hearing must be made in writing within seven (7)
**business days** of the date of service of the Housing Authority's termination notice. The hearing should be held at the earliest opportunity by the MHA. A summary of the meeting shall be prepared within a reasonable time and one copy given to the resident and one copy retained in the resident's file.

**Formal Hearing:** If the resident is not satisfied with the results of the Informal Hearing, the resident can submit a written request for a Formal Grievance Hearing within fourteen (14) days of the date of service of the Housing Authority’s Informal Hearing results. The request must state the reason for the grievance and the action sought from MHA. If the resident does not request a Formal Hearing within the timeframe specified in the Grievance Procedure, the decision of the Informal Hearing Officer becomes final, unless the resident can show good cause why s/he failed to request the Formal Hearing in accordance with the Grievance Procedure.

**VII. Selecting the Hearing Officer [966.55 (b)(2)(ii)]**

Formal Grievance Hearings must be conducted by an impartial person appointed by MHA, as described below:

A. MHA shall nominate a slate of impartial persons to sit as Hearing Officers. Such persons may include MHA Board members, MHA staff members, residents, professional arbitrators, or others. The initial slate of nominees should be at least nine persons.

   MHA will check with each nominee to determine whether there is an interest in serving as a hearing officer or panel member, whether the nominee feels fully capable of impartiality, whether the nominee can serve without compensation, and what limitations on the nominee's time would affect such service.

   Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends, other residents of developments in which they work or reside, or grievances in which they have some personal interest. Nominees who are not interested in serving as hearing officers or whose time is too limited to make service practical will be withdrawn and other names will be substituted.

B. A slate of potential Hearing Officers nominated by MHA shall be submitted to MHA's Resident Organizations. Written comments from the organizations shall be considered by MHA before the nominees are appointed as Hearing Officers.

C. When the comments from Resident Organizations have been received and considered, the Nominees will be informed that they are MHA's official Grievance Hearing Committee. MHA will subsequently contact committee members in random order to request their participation as Hearing Officers.

**VIII. Escrow Deposit Required for a Hearing Involving Rent [966.55 (e)]**

Before a hearing is scheduled in any grievance involving the amount of rent which the MHA claims is due under this lease, the complainant shall pay to the MHA an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act
took place. The complainant shall, thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the Hearing Officer. This requirement will not be waived by the MHA unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the tenant's welfare benefits have been reduced for welfare fraud or failure to comply with economic self-sufficiency requirements. In these cases only, rent need not be escrowed.

IX. Scheduling Hearings [966.55 (f)]

When a complainant submits a timely request for a Formal Grievance Hearing, MHA will immediately contact a member of the Hearing Committee to schedule the hearing within fourteen (14) days on one of the dates and times indicated by the complainant. The complainant will be notified on a date and time for the hearing.

Once the hearing officer has agreed upon the hearing date and time, the complainant, the manager of the development in which the complainant resides, and Hearing Officer shall be notified in writing. Notice to the complainant shall be in writing, either personally delivered to complainant or sent by mail, return receipt requested. The written notice will specify the time, place and procedures governing the hearing.

X. Procedures Governing the Hearing [966.56]

The hearing shall be held before a Hearing Officer as described above in Section VII. The complainant shall be afforded a fair hearing, which shall include:

A. The opportunity to examine before the hearing any HA documents, including records and regulations that are directly relevant to the hearing. The Tenant shall be allowed to copy any such document at the Tenant's expense. If MHA does not make the document available for examination upon request by the complainant, the MHA may not rely on such document at the Grievance Hearing.

B. The right to appear at the hearing and to be represented by counselor other person chosen as the Complainant's representative and to have such person make statements on the Complainant's behalf. The counselor other person chosen by the Complainant to be the Complainant's representative will only be permitted to appear on behalf of the Complainant if the Complainant is physically present at the hearing.

C. The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the Tenant's complaint to controvert evidence relied on by MHA or Property Management, and to confront and cross examine all witnesses upon whose testimony or information the MHA or Property Management relies; and

D. A decision based solely and exclusively upon the fact presented at the hearing. [966-56 (b)] The Hearing Officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding. [966-56 (c)]
At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, the MHA must sustain the burden of justifying the action or failure to act against which the complaint is directed. [966.56 (e)]

The hearing shall be conducted informally by the hearing officer. Oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. [966.56 (I)]

The Hearing Officer shall require MHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate. [966.56 (I)]

The complainant or MHA may arrange in advance, at expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript. [966.56 (g)]

MHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format. [966.56 (h)]

If Hearing Officer fails to disqualify himself/herself as required in Section V.A, MHA will remove the Hearing Officer from the Hearing Committee, invalidate the results of the hearing and schedule a new hearing with a new hearing officer.

XI. Failure to Appear at the Hearing

If the complainant or MHA fails to appear at the scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for not to exceed five (5) business days, or may make a determination that the party has waived his right to a hearing. [966.56 (d)]

The complainant must by physically present for a hearing. Legal counselor other representative of the complainant may not appear at a hearing on behalf of Complainant unless complainant is physically present at the hearing.

Both the complainant and MHA shall be notified of the determination by the Hearing Officer; provided, that a determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest MHA's disposition of the grievance in court. [966.56 (d)]

XII. Decision of the Hearing Officer [966.57]

The Hearing Officer shall prepare a written decision, together with the reasons for the decision within fourteen (14) business days after the hearing. A copy of the decision shall be sent to the
complainant and the MHA.

MHA shall retain a copy of the decision in the Tenant's folder. A copy of the decision with all names and identifying references deleted shall also be maintained on file by the MHA and made available for inspection by a prospective complainant, his representative, or the Hearing Officer.

XIII. Reasonable Accommodation in the Grievance Procedure

MHA will provide reasonable accommodation for a person with disabilities throughout the grievance process. This includes, but is not limited to, accommodating residents with disabilities by accepting grievances by mail or having MHA staff reduce an oral request to writing, providing accommodations in the hearing by providing qualified sign language interpreters, readers, and/or accessible locations.

XIV. Review Request from Applicants For Housing

Applicants who are determined ineligible, who do not meet MHA's admission standards, or where MHA does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for their ineligibility, and offering them an opportunity for an Informal Review.

Applicants must submit their request for an Informal Review to MHA within fourteen (14) days from the date of the notification of their ineligibility.

If the applicant requests an Informal Review, MHA will schedule a meeting or submit within fourteen (14) days of receiving the request. MHA will notify the applicant of the place, date, and time. An impartial manager will conduct the informal meeting. The manager who conducts the meeting cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant may bring to the meeting any documentation or evidence s/he wishes and the evidence along with the data compiled by MHA will be considered by the manager. The manager will make a determination based upon the merits of the evidence presented by both sides. Within fourteen (14) days of the date of the review, the manager will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

The Grievance Procedures for Public Housing tenants do not apply to MHA determinations that affect applicants.

XV. Hearing and Appeal Provisions for "Restrictions on Assistance to Non-Citizens"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal. Assistance to a family may not be terminated or denied while the MHA hearing process is pending, but assistance to an applicant may be delayed pending the outcome of the hearing.
**INS Determination of Ineligibility**

If family member claims to be an eligible immigrant and the INS SA VE system and manual search do not verify the claim, MHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with MHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give MHA a copy of the appeal and proof of mailing or MHA may proceed to deny or terminate. The time period to request an appeal may be extended by MHA for good cause.

The request for a MHA hearing must be made within ten days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within ten days of receipt of that notice.

After receipt of a request for an Informal Hearing, the hearing is conducted as described in the "Grievance Procedures" section of this chapter for both applicants and participants. If the Hearing Officer decides that the individual is not eligible, and there are no other eligible family members, the MHA will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, MHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.
INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

- **Part I: Setting Utility Allowances.** This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

- **Part II: Establishing Flat Rents and Public Housing Maximum Rents.** This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

- **Part III: Repayment of Family Debts.** This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the PHA 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 (PHAS).** This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

- **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 the PHA will follow.

- **Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level.** This part describes the PHA’s reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

- **Part VII: Notification to Applicants and Tenants regarding Protections under the Violence against Women Reauthorization Act of 2005 (VAWA).** This part includes policies for notifying applicants and tenants of VAWA requirements.


PHAs must establish allowances for PHA-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)].

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities [24 CFR 965.506].

The PHA 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)].
14-I.B UTILITY ALLOWANCES

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a PHA 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 the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the PH Occupancy Guidebook provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

"If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

MHA Policy

MHA has not installed air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.
MHA Policy

Between annual reviews of utility allowances, MHA will only revise its utility allowances due to a rate change, when required to by the regulation.

14-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA 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 the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 14-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA 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 PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

MHA Policy

MHA does have furnished utilities.

14-I.D. NOTICE REQUIREMENTS [965.502]

The PHA 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 the PHA'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.

14-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the PHA 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 [PHOeCGB, 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 Occup GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

**PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS**

**14-ILA. OVERVIEW**

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status [24 CFR 5.504].

This part discusses how the PHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

**14-II.B. FLAT RENTS [24 CFR 960.253(b)]**

**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. The flat rent should be equal to the estimated rent for which the PHA could promptly lease the public housing unit after preparation for occupancy.

The PHA must use a reasonable method to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA
Review of Flat Rents

The PHA must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

MHA Policy

MHA will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

MHA Policy

MHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

14-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

PHAs are 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, PHAs must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (11P) for each tenant within the PHA. PHAs may calculate a maximum rent on either a PHA- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

PHAs may use the "direct comparison" or the "unit distribution" method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

MHA Policy

MHA will review the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

MHA Policy

MHA will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable PHA or project office.
Documentation of Public Housing Maximum Rents

MHA Policy

MHA will maintain records that document how MHA determined the 95th percentile of TTP, whether the maximum rent was determined MHA-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE PHA

14-III.A. OVERVIEW

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

MHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.

MHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When a family refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

14-III.B. REPAYMENT POLICY

Family Debts to the PHA

MHA Policy

Any amount owed to MHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, MHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, MHA will terminate the family's tenancy in accordance with the policies in Chapter 12. MHA will also pursue other modes of collection.
General Repayment Agreement Guidelines

Down Payment Requirement

MHA Policy
Before executing a repayment agreement with a family, MHA will generally require a down payment of the total amount owed. If the family can provide evidence satisfactory to MHA that a down payment would impose an undue hardship, MHA may, in its sole discretion, require a lesser percentage or waive the requirement.

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<thead>
<tr>
<th>% of Total Amount</th>
<th>Amount Owed</th>
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<tbody>
<tr>
<td>10% to 15%</td>
<td>$200-$500</td>
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<tr>
<td>10% to 20%</td>
<td>$500 - $1,000</td>
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<tr>
<td>15% to 20%</td>
<td>$1,001 - $2,500</td>
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<tr>
<td>20% to 25%</td>
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There are some circumstances in which MHA will not enter into a repayment agreement. These include, but are not limited to:

- If the family already has a Repayment Agreement in place, or
- Has had a Repayment Agreement within the last two years, or
- Does not have the financial ability to make the payments in a timely manner, or
- Has committed fraud for a continual period of time. (In excess of 12 months)

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

MHA Policy
If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

- The difference between 40 percent of the family's MAI and the total family share at the time the agreement is executed
- $50
If a family can provide evidence satisfactory to the PHA that a monthly payment amount of $50 would impose an undue hardship, MHA may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either MHA or the family may request that the monthly payment amount be adjusted accordingly.

**Execution of the Agreement**

**MI-IA Policy**

Any repayment agreement between MHA and a family must be signed and dated by the MHA and by the head of household and spouse/cohead (if applicable).

**Due Dates**

**MHA Policy**

Unless otherwise specified in the Repayment Agreement, all payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

**Late or Missed Payments**

**MHA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by MHA, MHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and MHA will terminate tenancy in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and MHA will terminate tenancy in accordance with the policies in Chapter 12.

**No Offer of Repayment Agreement**

**MHA Policy**

MHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

**Repayment Agreements Involving Improper Payments**

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
• A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases

• A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

14-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, 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.

14-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's properties
Maximum Score: 30

• The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.

• To determine the physical condition of a PHA'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 the PHA's public housing portfolio.

Indicator 2: Financial condition of a PHA
Maximum Score: 30

• The objective of this indicator is to measure the financial condition of a PHA 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.

• A PHA's financial condition is determined by measuring the PHA'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 a PHA  
Maximum Score: 30

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.

- A PHA's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, PHA 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 the PHA.

- The PHA's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions the PHA takes based on the results of the survey.

14-IV.C. PHAS SCORING [24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each PHA as high performing, standard, or troubled.

A high performer is a PHA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall PHAS score of 90 or greater.

A standard performer is a PHA that has an overall PHAS 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 PHA that achieves an overall PHAS 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 PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].

- PHAs that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the PHA’s performance [24 CFR 902.73(a)].

- PHAs 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 PHA performance [24 CFR 902.75].

- PHAs that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

PHAs must post a notice of its final PHAS 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

14-V.A. OVERVIEW
The PHA 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, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

14-V.B. RECORD RETENTION
The PHA 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].

MHA Policy
During the term of each public housing tenancy, and for at least four years thereafter, MHA will keep all documents related to a family's eligibility, tenancy, and termination. In addition, MHA will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation supporting PHAS scores
- Accounts and other records supporting MHA budget and financial statements for the program
- Other records as determined by MHA 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-ILA.

14-V.C. RECORDS MANAGEMENT
PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

MHA Policy
All applicant and participant information will be kept in a secure location and access will be limited to authorized MHA staff.

MHA 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 the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data.

MHA Policy

Prior to utilizing HUD's EIV system, MHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA 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 a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.
PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

14-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The PHA 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. The PHA must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

MHA Policy

MHA 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.

MHA 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: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

14-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires PHAs to inform public housing tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants [24 CFR 5.2007(3)].

This part describes the steps that the PHA will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

14-VII.B. VAWA NOTIFICATION

MHA Policy

The PHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 14-1)

The definitions of domestic violence, dating violence, and stalking provided in VAWA (included in Exhibit 14-1)

An explanation of the documentation that MHA may require from an individual who claims the protections provided by VAWA (included in Exhibit 14-1)
A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of the MHA's obligation to keep confidential any information that it receives from a victim unless (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 14-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 14-1)

Contact information for local victim advocacy groups or service providers

14-VII.C. NOTIFICATION TO APPLICANTS

MHA Policy

MHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of MHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

14-VII.D. NOTIFICATION TO TENANTS [24 CFR 5.2007(3)]

VAWA requires PHAs to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

MHA Policy

MHA will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the tenant of MHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MHA will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 12-IV.D).
A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

**Reasons You Can Be Evicted**

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

**Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking**

The housing authority can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
• Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

• You give written permission to the housing authority to release the information.
• The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
• A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

VAWA does not limit the Housing Authority's duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact the Marin Housing Authority at (415) 491-2525 or (415) 332-1913.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).
Definitions
For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines **domestic violence** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse 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
- 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 **stalking** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.
ACOP

CHAPTER 15

NOW INFORMATION FOUND IN CHAPTER 14
ACOP

CHAPTER 16
Chapter 16

FAMILY SELF-SUFFICIENCY PROGRAM

A. PURPOSE 24 CFR 984.101

The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of assistance under the Housing Choice Voucher and Public Housing program with public and private resources, enable participating families to earn increased income, reduce or eliminate the need for welfare assistance, and make progress toward achieving economic independence and housing self-sufficiency.

This is a voluntary program and in the event a family fails to meet obligations under the FSS Contract of Participation, MHA will not terminate housing assistance under the Housing Choice Voucher or Public Housing programs.

FAMILY DEMOGRAPHICS 24 CFR 984.201 (d) (1)

Marin County residents reflect a diverse array of socioeconomic and ethnic groups. The predominant groups residing in Public Housing and participating in the Housing Choice Voucher program are single female head of households with minor children, Caucasians, African Americans, Asians predominately of Vietnamese descent, and Latinos. There is also a large and active disabled community. These groups are all represented in the PH and HCV FSS Program.

Nondiscrimination 24 CFR 984.201 (d)(6)(ii)

In selecting participating families, assurances will be evident that the selection was made in a nondiscriminatory manner without regard to race, color, religion, sex, family status, national origin, sexual orientation, blindness, visual handicap, physical handicap, or mental impairment in compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, and Executive Order 11063.

MHA will not discriminate against otherwise qualified persons because of their disabilities. MHA will make reasonable accommodations to the person's disability to allow participation in the FSS Program. MHA may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.
B. PARTICIPANT SELECTION 24 CFR 984.201(d)(1)

Eligibility Requirements

1. To be selected to participate in the FSS Program, a resident must be a head-of-household, and either a Public Housing resident, or an active participant of the Housing Choice Voucher Program. An eligible participant must be a participant in good standing (i.e. no eviction proceedings pending for unpaid rent/charges or cause).

2. The FSS family includes everyone in the household. However; only one escrow account will be established per household.
   Other members of a household (over 18) are eligible to become participants if the head of household has signed a Contract of Participation.

3. All participants must be willing to sign a Contract of Participation. The purpose of the contract is to state the rights and responsibilities of the family and MHA, the resources and supportive services to be provided to the family and the activities to be completed by the family. Basic support services are part of the contract and include but are not limited to:

   **Education & Training:**
   - Education and Literacy
   - GED Classes
   - Community College
   - Career Guidance
   - Specialized Technical Classes
   - Four-Year College/University
   - On-The-Job Training
   - Job Placement
   - Social/Life Skills Training

   **Counseling:**
   - Individual Counseling
Family Counseling
Group Counseling
Outpatient Drug & Alcohol Counseling
Residential Drug & Alcohol Treatment
Parenting Classes
Self-Esteem Training

Other:
Childcare
Transportation
Credit Counseling
Money Management/Budget Counseling
Grants & Financial Aid
Assistance with Court/Legal Matters
Homeownership counseling

Application and Selection Process 24 CFR 984.201 (d)(6)(i)

Participants from each FSS program must be selected from their respective housing program. Public Housing FSS families must reside in public housing; Housing Choice Voucher FSS families must come from Housing Choice Voucher participants.

1. MHA will conduct outreach on an ongoing basis. The FSS Program is marketed via inclusion of program brochures in briefing packets for new voucher holders and public housing residents. MHA staff members promote the FSS Program at the time of Annual Re-certifications, Inspections, or other case management. The program is also promoted via community partnerships with other agencies who serve our HCV and PH Participant families, such as CalWorks, Marin Employment Connection, and Dept. of Rehabilitation.

New Public Housing residents will be notified of the FSS program at the time of lease up. In addition, FSS program information will be posted on site at each MHA office and in the offices of community based agencies and service providers.
The Housing Choice Voucher FSS program has fulfilled its mandatory slots (effective 2006; originally 107 slots). The voluntary program number will be 130. The number of Public Housing FSS program slots must be a minimum of 25.

Current Housing Choice Voucher participants and Public Housing residents who express a desire to participate in the FSS Program will be given an appointment for an Orientation.

1. To be eligible the applicant's income information must be current and within 120 days in the housing information system. MHA must conduct a new reexamination if more than 120 days have expired.

2. Applicant families that cannot be assisted immediately shall be placed on a waiting list in order of date of inquiry to participate in FSS and in order of most current effective date of re-exam in the housing information system.

Applicants will be withdrawn from the Family Self Sufficiency Program waiting list if:

   a) The applicant so requests
   b) MHA is unable to contact the applicant
   c) The applicant fails to respond to any MHA request for information

3. All participants must attend a full FSS orientation briefing and an information session... The FSS orientation is designed to assist the applicant in making a decision as to whether to participate in the FSS Program.

This session will include, but is not limited to, the following information:

- The needs assessment process;
- Explanation of the program requirement that the Head of Household seeks and maintains employment;
- How support services will be accessed;
- How case management works for the participant;
- The Contract of Participation and what it means;
- The Housing Choice Voucher Program and Public Housing requirements;
- The 5 to 7 year length of participation;
- The escrow account, audit process and the possible forfeiture of MHA escrow account funds.
- Mandatory Earned Income Disallowance (MEID)
4. After attending the required FSS orientation, the applicant will meet with the Program Coordinator/Case manager for an intake interview, at which time the applicant will complete the FSS application. The Program Staff will conduct a needs assessment and work with the applicant on developing a goal plan. This process may require that the applicant attend more than one meeting with the Staff member.

5. Based upon the intake interview, application and needs assessment process, the Program Coordinator/Case manager will determine whether the family is sufficiently motivated to participate in the FSS Program. If an applicant fails to show up for two appointments prior to signing the contract, without notifying the case manager, this will be deemed as lack of interest and they will be placed back on the wait list.

Applicants who are admitted to the program will be so notified and will sign a Contract of Participation.

6. Income and rent numbers to be used on the Contract of Participation may be taken from the amounts on the last re-examination or interim determination before the family's initial participation in the FSS program, unless more than 120 days will pass between the effective date of the re-examination and effective date of the Contract of Participation. If more than 120 days have passed since the last re-examination, MHA must conduct a new re-examination or interim.

7. If an interim re-examination occurs after the Contract of Participation is signed but before it has become effective, MHA may use the lower of the two figures for the Contract of Participation.

8. Applicants who are denied admission to the FSS Program will be so notified. Applicants who are denied may appeal MHA's action by following the grievance process outlined in this Administrative Plan.

9. If the Head of Household has previously participated in the FSS Program and cashed out its escrow account, or committed a program violation and was terminated, the Head of Household may not receive FSS assistance again. If the Head of Household previously participated and failed to meet their obligations, they may be denied future participation.

10. If the Head of Household has previously participated in the FSS Program but did not graduate, the Head of Household may reapply for participation if they meet the following criteria:

♦ The family met its obligations during the period of participation;
♦ The family did not earn escrow or if they forfeited their escrow;
♦ The family voluntarily withdrew from the program in good standing.
Under these circumstances, a family may re-apply to the FSS Program after a twelve-month wait period after leaving the program. To re-apply, a family must submit a written request to the Program Coordinator, stating why they believe participation at the current time will offer a more successful outcome. If there is a waiting list, the family will be placed in the next available slot on the list and served when their name comes to the top. They will be required to attend an orientation as all new participants are required to do.

C. NEEDS ASSESSMENTS FOR THE PROGRAM PARTICIPANTS 24CFR 984.201 (d)(8)

A comprehensive needs assessment will be conducted. An Individual Services and Training Plan will be completed for each family prior to signing a Contract of Participation. An Action Plan will be developed which shall include:

1) the family's goals, both primary and secondary;
2) the services the family requires to achieve their goals;
3) service providers with whom the family will be working;
4) a list of steps necessary to complete the family's Action Plan and the milestones in that Plan

The Individual Training and Services Plan which includes goals and action steps will be reviewed, monitored, and updated as necessary by the Program Coordinator/Case Manager. The Individualized plans will be reviewed at least semi-annually for both Housing Choice Voucher and Public Housing FSS participants.

D. CASE MANAGEMENT

Case management is a key factor in ensuring comprehensive service delivery. Case management establishes a systematic, continuous process in which families are actively involved in planning the steps they can take to improve their lives and in evaluating the results. Case management is not merely service brokering, but a problem-solving partnership among practitioners and clients. MHA employs a Program Coordinator and a Case Manager who fulfill the following functions:

1) Assist in briefing of applicants;
2) Provide information and referral services to participants;
3) Assist in identifying and utilizing appropriate community resources;
4) Coordinate services for participants with various Health and Human Services/Social Services agencies, and other non-profit groups;
5) Monitor participant's progress in meeting goals;
6) Work with other agencies' case managers;
7) Provide services-up to one year after the family graduates from the FSS program.
E. PARTNERING AGENCIES

Employment/Training and Education

The Marin Employment Connection will work with Program Staff to coordinate employment training, education, and employment referrals for participating families. Services in this component will include: educational assessment, education for completion of high school, and job training, preparation, and placement.

Other Support Services

Marin Housing has developed a strong network with various Marin County and Bay Area social service agencies that are willing to provide services for participants of the FSS Program. These agencies are:

- ACORN Housing
- Canal Community Alliance
- Catholic Charities
- College of Marin
- Community Action Marin
- Community Child Care Council
- Department of Rehabilitation
- Family Service Agency of Marin County
- Lao Family Services
- Marin Abused Women's Services
- Marin Adopt A Family
- Marin County Community Mental Health Services
- Mann County Office of Education
- Marin Education Fund
- Marin Employment Connection/EDD
- Marin Family Action
- Marin Jobs and Career Services
- Marin Services for Women
- Ritter Center
- Prosperity Partners of Marin
- Regional Occupational Program (ROP)
- WISE (Women's Initiative for Self Employment)
- Women Helping All People
- YWCA
F. INCENTIVES TO ENCOURAGE PARTICIPANTS 24 CFR 984.201(d)(5)

Marin Housing will establish an interest bearing escrow account for participating families who have an increase in earned income during the time of participation, resulting from achievement of the Contract of Participation Goals. Escrow accounts will be established and administered according to the regulations set for the FSS Final Rule (24CFR 984.305)

The FSS Staff will work in coordination with community partnerships to provide periodic workshops on topics related to credit repair, financial literacy, preparation for homeownership, and asset building. These workshops will be widely advertised, open to both current and prospective FSS participants in both the HCV and PH programs.

Mann Housing will provide additional asset building opportunities through partnership with community based organizations and the federal government in establishing IDA programs.

G. PROGRAM COORDINATING COMMITTEE 24CFR 984.202

The role of the Program Coordinating Committee is to help secure commitments of public and private resources and to prepare and implement the FSS program action plan. The Program Coordinating Committee will meet at least once per year.

H. CONTRACT OF PARTICIPATION 24 CFR 984.303

The Contract is an agreement between MHA and the Head of Household. It sets forth the provisions of the program, specifies the resources and appropriate support services necessary to assist the participant family in achieving economic independence and self-sufficiency, and the responsibilities and obligations of the participating family. The contract shall provide that MHA may terminate or withhold supportive services if the family fails to comply with the requirements of the contract.

An Individual Training and Services Plan must be completed for the FSS Head of Household.

- The contract shall specify that each participating family will be required to fulfill the obligations to which the family has committed itself under the contract within 5 years of entering into the contract. MHA can extend the term of the contract for up to an additional 2 years for a participating family that requests an extension if MHA finds good cause exists for granting the extension. Good cause exists if the circumstances that prevented completion of the contract were beyond the control of the family, such as a serious illness or involuntary loss of employment, or additional time to become independent of cash aid welfare assistance. The Mandatory Earned Income Disallowance alone is not considered allowable cause for an extension.
The person designated as the head of the participating family shall be required under the contract to seek and maintain suitable employment following completion of a job training program if required as a condition of the contract.

"Seek employment" means that the head of household provides documented proof that he/she is actively looking for a job, applying for work, going on job interviews, and otherwise following up on employment opportunities.

If the FSS family does not seek and maintain employment as specified in the FSS Contract of Participation, or never finds employment during the contract's 5 year term, the family will not have met its obligations and MHA may terminate the family's participation in the FSS Program.

The head of household may attend school only as a precondition to seeking employment, but after completion of the contracted course of study the head of household must seek and maintain a suitable job. School may not be substituted for employment.

MHA has the ultimate responsibility for determining if the head of household's employment is deemed "suitable" for FSS purposes. This decision must be made in conjunction with the head of household, and it must be based on the person's skills, education, and the available job opportunities within MHA's jurisdiction. The overall objective should include employment that will propagate self-sufficiency. MHA may delegate this responsibility to the FSS Program Coordinator on recommendations from the Program Coordinating Committee.

If the head of household leaves the family or becomes medically unable to work during the term of the Contract of Participation, and the remaining family members continue participation in the voucher program, the Contract of Participation must be revised to designate a new head of household who must seek and maintain employment. The head of household must be at least 18 years of age.

The Program Coordinator/Case Manager shall provide counseling for the participating family with respect to seeking, securing, and maintaining affordable rental (and as appropriate, home ownership) opportunities in the private housing market. This counseling shall include information on an individual's rights under the Fair Housing Act.

The Program Coordinator/Case Manager may continue to offer a participating family support services if: (1) the family has completed its contract; (2) the head of household becomes employed; and (3) the continuation of support services would strengthen the efforts of the family to become or remain self-sufficient.

The services may only continue for one year after the family leaves the program.

The parties to the contract may mutually agree to make changes to the contract, provided the terms of the changes are acceptable to all parties and the changes are consistent with the goals of the program.
I. TERMINATION OF THE CONTRACT OF PARTICIPATION 24CFR 984.303 (2)(h)

MHA may terminate the Contract of Participation if:

1) The participating family has successfully completed the contract and achieved self-sufficiency; or
2) MHA and the participating family mutually consent to termination. Reasons for mutual consent can include, but are not limited to:
   • the necessary support services are not available;
   • the family leaves the area
3) The participating family chooses to leave the FSS Program and forfeits their escrow account;
4) The participating family has failed to meet the FSS obligations;
5) The participating family member is involved in illegal activities including drug-related activities or violent criminal activities or allows a visitor or guest to engage in illegal activities;
6) The family fails to meet its obligations under the Housing Choice Voucher Program or Public Housing Program; including but not limited to:
   • failure to report income or changes in family composition;
   • failure to allow inspections of dwelling unit;
   • Failure to provide requested information.
7) The participant has committed any fraud in connection with any federal housing assistance program;
8) The participant has violated any obligation under the Housing Choice Voucher or Public Housing Program;
9) The family commits such other act as is deemed inconsistent with the purpose of the FSS Program.

J. INFORMAL HEARING

The participating family is entitled to an informal hearing if a decision to deny or terminate the FSS Contract of Participation or housing assistance is made. Hearings will be conducted in accordance with the procedures outlined in the Public Housing ACOP and HCV Administrative Plan.

K. ESCROW ACCOUNTS 24CFR 984.305

The FSS program provides for the establishment of an escrow account. A portion of the increase in the family's rent because of increases in earned income will be credited to the escrow account in accordance with HUD requirements.

The amount of the escrow credit is based on increases in the family's total tenant payment resulting from increases in the family's earned income during the term of the FSS contract.

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The family may request an interim be processed for an increase in rent in order to contribute to the escrow account. An interim will be processed as a courtesy to the family even if the increase in income is lower than may be required for increasing the rent according to Housing Choice Voucher and Public Housing lease procedures.

As the family's income increases, MHA calculates rent and the family pays increased rent, as does any other resident. MHA then makes deposits to an escrow account in the appropriate amount based on one of two formulas, one for very low-income families and one for low-income families.

For very low-income families, the amount of the monthly escrow credit is the lesser of:
(1) 30% of the current monthly adjusted income increases since execution of the Contract of Participation, or
(2) current family contribution less the family contribution when the Contract of Participation was executed. For low-income families, the amount is one-half of the amounts calculated according to the computation system used for very low-income families. There is no escrow credit for families in excess of 80% of median income.

In Public Housing the family pays the tenant rent directly to MHA. The escrow credit is deducted from the rent payment and put in the Public Housing Escrow Account.

Public Housing residents and HCV Participants must pay their rent on time and all charges or repayment agreements should be current for the escrow account to be credited.

MHA can hold the escrow amount until the Contract of Participation expires (or five years). However, if the additional time will not increase the family's ability to pay an unsubsidized rent, MHA may terminate the contract and release the escrow funds.

After satisfactory completion of all program requirements and a thorough audit of the account participants will receive their escrow account payment within 30 days.

Establishing Escrow Accounts

FSS escrow funds must be deposited into a single, interest-bearing depository account. The accounting for these funds will be supported through a subsidiary ledger that records the balance of each individual FSS participant's account.

MHA will report to the family at least annually on the escrow account including:

- The balance at the beginning of the reporting period,
- The amount credited during the period,
- Any deductions made from the account for amounts due MHA before interest was distributed,
- The amount of interest earned on the account, and
• The total in the account at the end of the reporting period.

**Disbursement of FSS Account Funds**

Disposition of the escrow accounts shall be as follows:

1) Amounts in the escrow account, in excess of any amount owed to MHA, may be withdrawn by the participating family only after the family certifies that it is no longer a recipient of any Federal, State, or other public assistance; excluding housing assistance.

2) If the family fails to meet its obligations under its Contract of Participation, it makes the contract voidable and the escrow account will be forfeited.

3) The family terminates its participation in the Housing Choice Voucher or Public Housing Program even though the TTP is below the amount that is required to meet the unit's gross rent, below the FMR or Payment Standard, or otherwise appears to be insufficient to pay an unsubsidized rent, as long as all the other terms of the Contract of Participation have been met; the escrow money can be paid to the family.

4) If the family is purchasing a home prior to the completion of the FSS contract either through the HCV Homeownership Program or without subsidies, they may receive their escrow.

5) A thorough audit of the account will be made prior to final disbursement.

**Interim Disbursement of Escrow Funds**

MHA does not provide interim escrow withdrawals.

**L. PORTABILITY OF ASSISTANCE 24CFR 984.306**

In order to participate in the FSS Program, families must live in the initial jurisdiction for not less than one year before the family will be considered for a move under portability. MHA has the authority to approve a family's request to move during this period.

After one year a family can choose to continue to participate in the FSS Program but move to another jurisdiction with the following conditions:

1) The family must demonstrate to the satisfaction of MHA that it will be able to fulfill its responsibilities under the original (or a modified) Contract of Participation in the receiving jurisdiction.
2) If a participating family moves and is unable to fulfill its obligations under the Contract of Participation (or a modification thereof), MHA will:

   a) terminate the participating family from the FSS Program; and
   b) the family will forfeit its escrow account.

3) If the family is participating in the FSS Housing Choice Voucher and Public Housing program and moves outside the MHA jurisdiction the MHA may transfer the balance of the family's escrow account to another housing authority.

4) All other provisions of portability remain the same under the FSS Program.

Effects of escrow accounts for families who move to other jurisdictions are:

1) If a family moves and the receiving HA absorbs and issues their own Voucher, the receiving HA sets up an escrow account. MHA will close out the family's escrow account and forward the balance to the receiving HA.

2) If the participating family moves, and the receiving HA decides not to absorb (to administer and bill), the family must demonstrate they can continue in MHA's FSS Program. MHA will maintain the escrow account. The receiving HA must provide MHA with a breakdown of employment income versus other income in order to enable MHA to calculate escrow account deposits. Failure of the receiving HA to provide such information will result in MHA holding the receiving HA's reimbursement payments.

   If the family completes the Contract of Participation, the receiving HA will notify MHA and certify that the family is no longer receiving housing assistance. MHA will then pay out the escrow account to the family.

   If the family does not complete the Contract of Participation when it expires, the receiving HA shall notify MHA and the escrow account is forfeited and reverts to MHA.

FSS families who request to port to MHA from another jurisdiction may transfer their FSS Contract of Participation to MHA, provided they contact MHA FSS staff within 120 days of leasing up. If they fail to contact MHA FSS staff within 120 days, they may be placed on a wait list.

M. REPORTS 24CFR 984.401

MHA shall submit required reports as requested by HUD and outlined by the most current NOFA.
Chapter 17
COMMUNITY SERVICE

INTRODUCTION
This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA 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: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

17-I.A. OVERVIEW
HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(1)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA 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, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

17-I.B. REQUIREMENTS
Each adult resident of the PHA, 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).

MHA Policy
An individual may not skip a month and then double up the following month, unless special circumstances warrant it. The PHA will make the determination of whether to permit a deviation from the schedule.
Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the PHA in writing within 5 business days of the circumstances becoming known. The PHA will review the request and notify the individual, in writing, of its determination within 10 business days. The PHA may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2009-48]

An exempt individual is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

MHA Policy

MHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service [24 CFR 960.601(b), Notice PIH 2009-48]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired
Executives, senior meals programs, senior centers, Meals on Wheels

- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts

- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board

- Care for the children of other residents so parent may volunteer

PHAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

**MHA Policy**

MHA will accept community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work as eligible community service activities.

**Economic Self-Sufficiency Program** [24 CFR 5.603(b), Notice PIH 2009-48J]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

**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
Provision of child care services to an individual who is participating in a community service program

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2009-48]
The PHA 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 PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, Attachment A of Notice PIH 2009-48, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease.

MHA Policy
MHA will provide the family with a copy of the Community Service Policy found in Exhibit 171 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, MHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.
17-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The PHA 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 17-I.D., Documentation and Verification.

MHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, MHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, MHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

MHA Policy

At least 60 days prior to lease renewal, MHA 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 MHA 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, MHA will notify the family of its determination in accordance with the policy in Section 17-I.B., Notification Requirements.

Determination of Compliance

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

MHA Policy

Approximately 60 days prior to the end of the lease term, MHA 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 MHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or MHA 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 17-I.E., Noncompliance.
Change in Status between Annual Determinations

**MHA Policy**

**Exempt to Nonexempt Status**

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to MHA within 10 business days.

Within 10 business days of a family reporting such a change, or MHA determining such a change is necessary, MHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

**Nonexempt to Exempt Status**

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to MHA within 10 business days. Any claim of exemption will be verified by MHA in accordance with the policy at 17-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or MHA determining such a change is necessary, MHA will provide the family written notice that the family member is no longer subject to the community service requirement, if MHA is able to verify the exemption.

The exemption will be effective immediately.

**17-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]**

MHA must retain reasonable documentation of service requirement performance or exemption in participant files.

**Documentation and Verification of Exemption Status**

**MHA Policy**

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 17-3. MHA will provide a completed copy to the family and will keep a copy in the tenant file.

MHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

MHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the PHA's determination, s/he can dispute the decision through the PHA's grievance procedures (see Chapter 13).
Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2009-48].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide certification to the PHA, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

MHA Policy

If anyone in the family is subject to the community service requirement, MHA will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to MHA, upon request by MHA.

If MHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, MHA has the right to require third-party verification.

17-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, the PHA may not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with the PHA. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c), Notice PIH 2009-48].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the PHA determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the PHA must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that the PHA
will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with the PHA to cure the noncompliance, or the family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

**MHA Policy**

The notice of initial 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 MHA 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.

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, MHA will terminate tenancy in accordance with the policies in Chapter 12.

**Continued Noncompliance [24 CFR 960.607(b)]**

If, after the 12 month cure period, the family member is still not compliant, the PHA must terminate tenancy of the entire family, according to the PHA's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

**MHA 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 the PHA 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.

**Enforcement Documentation [Notice PIH 2009-48]**

PHAs are required to initiate due process (see 24 CFR 966.53(c)) against households failing to comply with lease requirements including the community service and self-sufficiency requirement.

When initiating due process, the PHA must take the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
- Right of the tenant to be represented by counsel
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have
- A decision on merits

**PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

**17-II.A. OVERVIEW**

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA'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.

**PHA Implementation of Community Service**

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

**MHA Policy**

MHA will notify its insurance company if residents will be performing community service at MHA. In addition, MHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, MHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

**PHA Program Design**

The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].
MHA Policy

MHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

MHA’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. MHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

MHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, MHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the PHA Plan.

MHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When the P1-1A has a ROSS program, a ROSS Service Coordinator, or an FSS program, MHA will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with PHA coordinators will satisfy community service activities and PHA coordinators will verify community service hours within individual monthly logs.

EXHIBIT 17-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service — community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)

- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs

- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts

PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board

Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities — self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult — an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is engaged in work activities
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.
**Work Activities** — 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
- Provision of child care services to an individual who is participating in a community service program

**C. Requirements of the Program**

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.

2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.

3. Family obligation:
   - At lease execution, all adult members (18 or older) of a public housing resident family must: .
     - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
     - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 17-3) and provide documentation of the exemption.
   - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
• If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.

4. Change in exempt status:

• If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of exempt status.

• If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:

• Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.

• Provide in-house opportunities for volunteer work or self-sufficiency activities.

2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.

4. Noncompliance of family member:

• At least thirty (30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members;

  — The PHA will secure a certification of compliance from nonexempt family members (Attachment B).

• If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:

  — The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or

  — The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
• If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;

• The family may use the PHA’s grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

_________________________________________    ____________________________
Resident                                      Date

_________________________________________    ____________________________
Resident                                      Date

_________________________________________    ____________________________
Resident                                      Date

_________________________________________    ____________________________
Resident                                      Date
EXHIBIT 17-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.
EXHIBIT 17-3: MHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: ________________________________________________

Adult family member: __________________________________

This adult family member meets the requirements for being exempted from the PHA’s community service requirement for the following reason:

CI  62 years of age or older *(Documentation of age in file)*

CI  Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement *(Documentation of HUD definition of disability in file)*

**Tenant certification:** I am a person with disabilities and am unable to comply with the community service requirement.

______________________________  ______________________
Signature of Family Member       Date

CI  Is the primary caretaker of such an individual in the above category. *(Documentation in file)*

El  Is engaged in work activities *(Verification in file)*

CI  Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program *(Documentation in file)*

CI  Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

______________________________  ______________________
Signature of Family Member       Date

______________________________  ______________________
Signature of PHA Official         Date
Purpose

The purpose of this School Attendance Pilot Program (“Program”) is to support local public school programs by improving community involvement that has been proven to result in higher academic performance and better quality schools. By partnering with the local school district to facilitate community involvement, the policy will enhance the educational attainment of young people in order to make a positive difference for themselves, their families and their communities, including our apartment communities. All of our rental agreements require residents to conduct themselves in accordance with all applicable laws, which include laws prohibiting truancy. This Program will provide incentives and assistance for parents and students to encourage school attendance, educate residents as to the resources available that will support their efforts in facilitating their child’s education, and legal ramifications of truancy for parents and children and assist residents in avoiding lease violations.

Scope

The Program will help guide all MHA’s residents, through its self-sufficiency programs, school attendance programs and community based programs by identifying solutions for students to reduce absenteeism, for parents to facilitate their children’s education, and to prevent truant behavior. Local public school programs and collaborations might include, but are not limited to, alternative education programs, behavioral programs, school based mentoring, or other programs tailored to the school community.

Policy

This Program will support the enforcement of school-based intervention and prevention initiatives, help the community understand the consequences of their child’s absence from school, including the School Attendance Review Board, and will help or prevent the need for any school or judicially based truancy mediation. MHA will form a committee compromised of public housing residents, local public school representatives, and MHA staff to assist in implementing the Program.

Procedures

1) Notice to Residents, The Marin Housing Authority will communicate with its residents - at least once a year to review the Program and updates to the Program, emphasizing the
importance of school attendance, which is required by all rental agreements which prohibit residents from violating any applicable laws. Communication will include, but are not limited to community meetings, letters to or individual meetings with residents, as well as resources that can support parenting responsibilities.

2) **Participation in the Pilot Program.**

   a. **Voluntary Participation**
      Parents will be encouraged and rewarded through incentives to voluntarily participate in the MHA School Attendance Procedures. Participation includes working with MHA and school district staff to ensure school attendance. Parents will agree to allow MHA and school district staff to assist in ensuring a child’s success through parent, teacher and staff recommendations and follow up. This participation may include an authorization to release attendance information from the student’s school record. This Release/Waiver shall be limited to school attendance records. Residents will be encouraged to share additional academic records in order to qualify for recognition and rewards.

   b. **Mandatory Participation**
      Parents whose children are deemed, through consultation with school / community authorities and MHA staff, to be truant once in a school year shall be required to participate in a mandatory school attendance remediation session and work with the school district, community organizations, and/or MHA staff to bring their children’s attendance to legally required compliance. This includes the requirement that a parent release attendance information to MHA to assist the parent in assuring a student’s attendance, which will enable MHA to assist the parent in complying with applicable laws as mandated by their rental agreement. Efforts will also be made to address any challenges that the parent(s) may be having and to offer resources to the parent(s).

   c. **Willful Failure to Ensure School Attendance**
      In the event that a parent willfully fails to ensure that a child attends school as required by law, MHA may seek to terminate housing as provided under Section 6 of the lease prohibiting illegal activity on the property.¹

¹ All students between the ages of 6 to 18 are subject to compulsory full-time education pursuant to California Education Code (“EC”) Section 48200. EC Section 48260 defines a truant as a student being absent from school without a valid excuse three full days in one school year or tardy for more than 30 minutes during the school day on three occasions in the school year. EC Section 48293 provides that any parent who fails to compel his or her child to attend school will be guilty of an infraction and liable for a fine. Also, California Penal Code Section 270.1 states that a parent or guardian of a child age 6 or more, who is in kindergarten, or any grades of 1 through 8, whose child is a chronic truant, and who has failed to supervise and encourage that child’s school attendance, is criminally liable; the parent or guardian may be subject to prosecution and found guilty of a crime punishable by a fine up to $2000 and/or imprisonment in the county jail for up to one year.
3) **Referral/Notice of Parents by School Personnel to MHA.** The school district’s personnel will alert the resident by letter with a copy to MHA if there is a child in the household who is or close to becoming a truant. The school personnel may notify MHA of any truancy and convening of the Student Attendance Review Team.

4) **Receipt of Referral/Notice.** Upon receipt of referral, or notice from the school, MHA may send a written warning to the parent or guardian of the student notifying them that their child is a truant, and offer resources to assist the parent or guardian with the truant student and issues that the parent or guardian may be having in with complying with ensuring their child’s attendance in school. Failure to correct the behavior within three months of implementation of support services by the school district, will lead to another written warning to the parent or guardian of the student notifying them that they are at risk of losing housing assistance for failing to supervise and encourage their child’s school attendance as required by law. MHA will forward the notice to the appropriate supportive services staff and copy property management.

5) **School Intervention Meeting.** As part of its partnership with the school district, the School will convene for a team meeting with Marin County Office of Education. The School will invite MHA to attend this meeting as a collaborative group that may be comprised of school personnel, teachers, parents, and or guardians, child/children, community and/or government agencies. MHA staff may participate in meetings as deemed appropriate by the school and the affected resident. The resident may accept or decline participation of MHA in its School Intervention Meetings.

6) **Termination of Housing Assistance.** In the event multiple referrals have been received, and is has been determined that there is a willful failure to ensure attendance at school in violation of applicable laws, a termination notice will be mailed to the resident pursuant to the prohibition of illegal activity provision found in Section 6 of the resident’s lease with MHA. The termination notice will advise the resident of their right to request a grievance hearing.

7) **Reasonable Accommodations.** If a disability prevents a household from participating in the Program, MHA will engage in an interactive process with the resident to discuss any reasonable accommodations which may be necessary to allow the household to satisfy the requirements of their lease agreement, including this Program, despite such disability. Each accommodation request will be considered on a case-by-case basis in accordance with applicable laws.
Chapter 19

Non-Smoking Policy

1. **Purpose.** The purpose of the non-smoking policy is to mitigate (i) the health and environmental risks in public housing that are associated with smoking; (ii) the increased maintenance, cleaning and rehabilitation costs from smoking; (iii) high costs of insurance for properties where smoking is permitted; and (iv) the increased risk of fire from smoking.

2. **Definition of Smoking.** The term “smoking” means engaging in an act that generates smoke, such as for example, but not limited to: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, a lighted cigarette of any kind or a lighted smoke inhalation device of any kind that generates smoke, or the act of lighting or igniting a pipe, a hookah pipe, a cigar, a cigarette or smoke inhalation device of any kind that generates smoke.

   “Smoke” means the gasses, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, but excluding incense or similar products inhaled solely for olfactory purpose so long as the products do not contain tobacco or nicotine. The term “smoke” includes, but is not limited to, tobacco smoke and marijuana smoke.

3. **Non-Smoking Area.** A Non-Smoking Area means that smoking is prohibited by residents and their guests (i) in all units (ii) in all interior common areas of MHA property; (iii) within 20 feet of any MHA building opening, including but not limited to, entrance, exit, window and vent; and (iv) within 20 feet of any area primarily used by children. Residents that live in a designated Non-Smoking Area agree to and acknowledge the non-smoking policy when they sign their lease.

4. **Resident to Promote Non-Smoking Policy and to Alert MHA of Violations.** Resident shall inform resident’s guests of the non-smoking policy. Further, residents may give MHA a written statement of any incident where smoke is migrating into the resident’s unit from sources outside of the resident’s unit.

5. **MHA to Promote Non-Smoking Policy.** MHA will promote non-smoking policy by posting no-smoking signs at entrances and exits, in common areas and in conspicuous places adjoining the grounds of the Non-Smoking Area. MHA will also promote the non-smoking policy as appropriate in meetings and discussions with residents.

6. **MHA Not a Guarantor of Smoke-Free Environment.** MHA’s adoption of a non-smoking policy does not make MHA or any of its managing agents the guarantor of resident’s health or of the non-smoking condition of the resident’s unit and the common areas. However, MHA shall take reasonable steps to enforce the non-smoking terms of its leases and to make the Non-Smoking Area as smoke-free as is reasonably possible.
7. Effect of Breach and Right to Terminate Lease. A violation of the non-smoking policy shall be considered a breach of the lease and shall give each party all of the rights contained in that lease. A material or continuing breach of the lease shall be a material breach of the lease and grounds for termination of the lease by MHA.
ACOP

CHAPTER 20
Chapter 20

Parking Policy for MHA Properties

Permit Parking Only - Assigned Spaces

One (1) MHA assigned parking space and permit will be assigned to each household subject to availability and pursuant to the procedures described below. Resident and visitor parking without a valid MHA permit being displayed in the vehicle is prohibited in MHA parking lots. Disabled Parking stalls may only be utilized by vehicles displaying a valid California disabled parking placard.

PLEASE BE ADVISED THAT YOU PARK ON MHA PROPERTY AT YOUR OWN RISK. MHA IS NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE TO VEHICLES AND VEHICLE’S CONTENTS ON MHA PROPERTY.

Accommodations

Residents who require a reserved accessible parking space must apply for a reasonable accommodation through MHA. Requests for reasonable accommodations by residents with a disability shall be processed in accordance with applicable law and MHA’s reasonable accommodation policies in the ACOP.

Exceptions

Parking stalls in the 100 parking lot of Drake Avenue, labeled “Staff,” are reserved for business use between the hours of 9:00 am and 9:00 pm, Monday through Friday, excepting legal holidays. Residents may not use stalls designated for “Staff” during these times, and vehicles parked there in violation of this section are subject to tow by the Housing Authority.

Authorized vehicles, owned and operated by the Marin Housing Authority or any other public agency, while being used for official business, shall be exempt from the restrictions of this parking policy.

Vehicle Registration and Permits

Residents must register their vehicle with an MHA office to obtain a parking permit and park in MHA parking lots, even if a vehicle is parked temporarily and the owner of the vehicle is sitting and/or standing around the vehicle. Parking permits must be affixed in the permitted vehicle’s rear window and be displayed at all times. Parking permits are not transferable, and are issued only to those vehicles used in routine or normal transportation. Trailers, boats, buses, motor homes, campers, or recreational vehicles not used in routine or normal transportation cannot be parked or stored in MHA parking lots. Residents will be required to renew their vehicle’s permit registration with current, required documents at every Annual Re-Certification as well as upon request from the Marin Housing Authority. To register a vehicle residents must supply to MHA:

1. A valid California drivers license of a person who is on the lease of the household applying for a permit;
2. A current vehicle registration, which has the name and MHA address of the person applying for the permit; and
3. Proof of the minimum, state-mandated insurance in the name of the MHA resident applying for the permit.

For avoidance of doubt, any vehicle parked / standing in an MHA parking stall must have a valid MHA permit displayed on the vehicle’s rear window, even if someone is sitting or standing around the vehicle, and/or the vehicle is idling.

Repairs and Washing
Major vehicle repairs and washing vehicles on MHA property is strictly prohibited under all circumstances. MHA’s parking policy limits repairs to those of a minor nature which can be completed in thirty minutes or less, including changing a tire, basic tune-ups, recharging a battery, changing a light bulb or similar activities. Prohibited repairs include, but are not limited to, engine removal, transmission removal, fluid changes (e.g., oil changes), rear end work or major body work. Under no circumstances shall a vehicle that constitutes a hazard be left unattended. In such cases, MHA may have the vehicle tagged and/or removed.

Illegally Parked Vehicles
Pursuant to California State Vehicle Code 21113 and most recent Resolution adopted by the MHA Board, law enforcement is authorized by cite any persons violating this parking policy. Any person who violates the provisions of this policy shall be guilty of an infraction, punishable by a fine based on the current county schedule.

Removal of Vehicles from MHA Parking Lots
Non-operational vehicles located anywhere on public housing property are subject to removal by local law enforcement per Sections 22651, 22669 or other California State Vehicle Code sections that allow or require their removal. Additionally, per California Vehicle Code section 22658, MHA may remove vehicles not in conformance with MHA Parking Policy standards, vehicles posing a threat or safety hazard, vehicles creating obstructions, and for other reasons deemed necessary by MHA. The cost for such removal will be the sole responsibility of the vehicle owner. Vehicles are illegally parked in a parking lot and subject to being cited and/or towed if the vehicle is:

1. Obstructing access and egress from parking lots;
2. Parked on the sidewalk, parking strip, grass area, common areas, a fire lane or a load/unload zone;
3. Not registered with MHA pursuant to this policy;
4. Not validly registered with the Department of Motor Vehicles or insured;
5. Displaying expired tabs;
6. Parked in a disabled stall without a California State disabled placard;
7. Inoperable (defined as a vehicle which lacks an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely);
8. A hazard or a nuisance;
9. Blocking fire lanes or emergency exits;
10. Parked alongside a curb that is painted red;
11. Being used for storage; or
12. Abandoned.

MHA parking lots are monitored for parking violations. Vehicles parked in parking lots without a proper permit may be towed, without notice or warning, at the vehicle owner’s expense.

Individual residents do not have the right to tow cars. However, residents may call the local law enforcement authority to report unpermitted or illegally parked vehicles in MHA parking lots. Additionally, residents who find an unpermitted or illegally vehicle parked in an MHA parking lot should contact the Property Manager and provide the vehicles location, make, model, color, and license plate number.

Repeated Violations
Permission to park on MHA property may be revoked for any violation of this policy. Additionally, parking permits may be revoked from residents who attempt to transfer their parking permit to unauthorized vehicles. Failure to comply with MHA’s rules and regulations, including this policy, is a violation of the Dwelling Lease and cause for termination of the resident’s tenancy.

Parking Availability
MHA provides parking as a benefit to its residents. It does not guarantee that parking spaces currently available for resident parking will always be available. In the event an MHA parking lot or spaces in a parking lot become unavailable for any reason, either temporarily or permanently, MHA will not provide alternate offsite parking.

MHA is not responsible for lost, stolen, or misplaced parking permits. Replacement parking permits may be purchased from MHA for $10 each.
PUBLIC HOUSING GRIEVANCE PROCEDURE
MARIN HOUSING AUTHORITY  
GRIEVANCE PROCEDURE

I. Hearing Request By Tenants

Grievances or appeals concerning the obligations of the tenant or MHA under the provisions of the lease shall be processed and resolved in accordance with the Grievance Procedure of MHA which is in effect at the time such grievance or appeal arises.

H. Definitions Applicable to the Grievance Procedure: (§ 966.53)

A. Grievance: Any dispute a Tenant may have with respect to Marin Housing Authority (MHA) action or failure to act in accordance with the individual Tenant's lease or MHA regulations that adversely affects the individual Tenant's rights, duties, welfare or status.

B. Complainant: Any Tenant (as defined below) whose grievance is presented to the PHA (at the central office or the development office) in accordance with the requirements presented in this procedure.

C. Hearing Officer: A person selected in accordance with 24 CFR § 966.550 and this procedure to hear grievances and render a decision with respect thereto.

D. Tenant: The adult person (or persons other than a Live-in aide): (1) Who resides in the unit, and who executed the lease with the PHA 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 the household of the Tenant family residing in the dwelling unit.

E. Resident Organization: An organization of residents, which also may include a Resident Management Corporation.

M. Applicability of this Grievance Procedure (966.51)

In accordance with the applicable Federal regulations (24 CFR § 966.50) this Grievance Procedure shall be applicable to all individual grievances (as defined in Section I above) between Tenant and the MHA with the following two exceptions:

A. Because HUD has issued a due process determination that the unlawful detainer law of the State of California provide the basic elements of due process before an eviction from the dwelling unit can occur, the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:

(1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of MHA,

(2) Any violent or drug-related criminal activity on or off MHA property; or
(3) Any criminal activity that resulted in felony conviction of a household member.

B. The MHA Grievance Procedure shall not be applicable to disputes between Tenants not involving the MHA or to class grievances. The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the MHA's Board of Commissioners. [966.51 (b)]

This Grievance Procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations. [966.52 (b) and (d)]

Any changes proposed in this Grievance Procedure must provide for at least 30 days notice to Tenants and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the MHA before any revisions are made to the Grievance Procedure. [966.52 (e)]

IV. Informal Settlement of a Grievance [966.54]

Any grievance must be presented, in writing to the MHA Central Office or the Golden Gate Village Office within ten (10) business days after the grievable event.

Grievances related to complaints about operational matters that are received by the MHA's Central Office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Deputy Executive Director.

As soon as the grievance is received, it will be reviewed by the management office of the development or to be certain that neither of the exclusions in paragraphs III.A or III.B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to MHA's grievance procedure, with the reason.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time within ten (10) business days to meet so the grievance may be discussed informally and settled without a hearing. At the Informal Hearing, the complainant will present the grievance and the person in charge of the management office will attempt to settle the grievance to the satisfaction of both parties.

Within ten (10) business days following the informal discussion, MHA shall prepare and either hand deliver or mail to Tenant a summary of the discussion that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a Formal Hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary shall also be placed in Tenant's file. A receipt signed by the complainant or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal discussion. [966.55 (a)]
V. Formal Grievance Hearing

If the complainant is dissatisfied with the settlement arrived at in the Informal Hearing, the complainant must submit a written request for a hearing to the management office of the development where Tenant resides no later than ten (10) business days after the summary of the Informal Hearing is received.

The written request shall specify:

- The reasons for the grievance;
- The action of relief sought from the Housing Authority; and
- Several dates and times in the following ten (10) business days when the complainant can attend a Grievance Hearing.

If the complainant requests a hearing in a timely manner, the MHA shall schedule a hearing on the grievance at the earliest time possible for the complainant, MI-IA, and the Hearing Officer, but in no case later than ten (10) business days after MHA received the complainant's request.

If the complainant fails to request a hearing within ten (10) business days after receiving the summary of the Informal Hearing, MHA's decision rendered at the Informal Hearing becomes final and the MHA is not obligated to offer the complainant a Formal Hearing unless the complainant can show good cause why he failed to proceed in accordance with this procedure. [1966.55 (c) and (d)]

Failure to request a Grievance Hearing does not affect the complainant's right to contest the MHA's decision in a court hearing. [966-54 (c)]

VI. Expedited Hearing Process for Criminal Activities Not Involving Violence, Drugs, or Risk To Health Or Safety

These modified and expedited procedures apply when the MHA has served a notice to terminate tenancy or otherwise initiate eviction proceedings, which is based on criminal activity which is not activity which threatens the health safety or right to peaceful enjoyment of the premises of other Tenants or employees of MHA; any violent or drug-related criminal activity on or off of MHA property; or any criminal activity that resulted in felony conviction of a household member.

**Informal Hearing:** The request for an Informal Hearing must be made in writing within seven (7) business days of the date of service of the Housing Authority's termination notice. The hearing should be held at the earliest opportunity by the MHA. A summary of the meeting shall be prepared within a reasonable time and one copy given to the resident and one copy retained in the resident's file.

**Formal Hearing:** If the resident is not satisfied with the results of the Informal Hearing, the resident can submit a written request for a Formal Grievance Hearing within ten (10) business days of the date of service of the Housing Authority's Informal Hearing results. The request must state the reason for the grievance and the action sought from MHA. If the resident does not request a Formal Hearing within the timeframe specified in the Grievance Procedure, the decision of the Informal Hearing Officer becomes final, unless the resident can show good cause why s/he failed to request the Formal Hearing in accordance with the Grievance Procedure.
VII. Selecting the Hearing Officer [966.55 (b)(2)(ii)]

A Grievance Hearing shall be conducted by an impartial person appointed by MHA after consultation with resident organizations, as described below:

A. MHA shall nominate a slate of impartial persons to sit as Hearing Officers. Such persons may include MHA Board members, MHA staff members, residents, professional arbitrators, or others. The initial slate of nominees should be at least nine persons.

MHA will check with each nominee to determine whether there is an interest in serving as a hearing officer or panel member, whether the nominee feels fully capable of impartiality, whether the nominee can serve without compensation, and what limitations on the nominee's time would affect such service.

Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends, other residents of developments in which they work or reside, or grievances in which they have some personal interest. Nominees who are not interested in serving as hearing officers or whose time is too limited to make service practical will be withdrawn and other names will be substituted.

B. A slate of potential Hearing Officers nominated by MHA shall be submitted to MHA's Resident Organizations. Written comments from the organizations shall be considered by MHA before the nominees are appointed as Hearing Officers.

C. When the comments from Resident Organizations have been received and considered, the Nominees will be informed that they are MHA's official Grievance Hearing Committee. MHA will subsequently contact committee members in random order to request their participation as Hearing Officers.

VIII. Escrow Deposit Required for a Hearing Involving Rent [966.55 (e)]

Before a hearing is scheduled in any grievance involving the amount of rent which the MHA claims is due under this lease, the complainant shall pay to the MHA an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall, thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the Hearing Officer. This requirement will not be waived by the MHA unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the tenant's welfare benefits have been reduced for welfare fraud or failure to comply with economic self sufficiency requirements. In these cases only, rent need not be escrowed.

IX. Scheduling Hearings [966.55 (f)]

When a complainant submits a timely request for a Grievance Hearing, MHA will immediately contact a member of the Hearing Committee to schedule the hearing within ten (10) business days on one of the dates and times indicated by the complainant. The complainant will be notified on a date and time for the hearing.
Once the officer has agreed upon the hearing date and time, the complainant, the manager of the
development in which the complainant resides, and Hearing Officer shall be notified in writing. Notice to
the complainant shall be in writing, either personally delivered to complainant or sent by mail, return
receipt requested. The written notice will specify the time, place and procedures governing the hearing.

X. Procedures Governing the Hearing [966.56]

The hearing shall be held before a Hearing Officer as described above in Section VII. The
complainant shall be afforded a fair hearing, which shall include:

A. The opportunity to examine before the hearing any HA documents, including records and
regulations that are directly relevant to the hearing. The Tenant shall be allowed to copy any
such document at the Tenant's expense. If MHA does not make the document available for
examination upon request by the complainant, the MHA may not rely on such document at the
Grievance Hearing.

B. The right to appear at the hearing and to be represented by counsel or other person chosen as
the Complainants representative and to have such person make statements on the
Complainant's behalf. The counsel or other person chosen by the Complainant to be the
Complainant's representative will only be permitted to appear on behalf of the Complainant if
the Complainant is physically present at the hearing.

C. The right to a private hearing unless the complainant requests a public hearing. The right to
present evidence and arguments in support of the Tenant's complaint to controvert evidence
relied on by MHA or Property Management, and to confront and cross examine all witnesses
upon whose testimony or information the MHA or Property Management relies; and

D. A decision based solely and exclusively upon the fact presented at the hearing. [966.56 (b)]
The Hearing Officer may render a decision without proceeding with the hearing if they determine
that the issue has been previously decided in another proceeding. [966.56 (c)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought
and, thereafter, the MHA must sustain the burden of justifying the action or failure to act against
which the complaint is directed. [966.56 (e)]

The hearing shall be conducted informally by the hearing officer. Oral or documentary evidence
pertinent to the facts and issues raised by the complaint may be received without regard to admissibility
under the rules of evidence applicable to judicial proceedings. [966.56 OA

The Hearing Officer shall require MHA, the complainant, counsel and other participants or spectators to
conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to
obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the
disorderly party and granting or denial of the relief sought, as appropriate. [966.56 (0]

The complainant or MHA may arrange in advance, at expense of the party making the arrangement, for a
transcript of the hearing. Any interested party may purchase a copy of such transcript. [966.56 (g)]
MHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format. [966.56 (h)]

If a Hearing Officer fails to disqualify himself/herself as required in Section V.A, MHA will remove the Hearing Officer from the Hearing Committee, invalidate the results of the hearing and schedule a new hearing with a new hearing officer.

XI. Failure to Appear at the Hearing

If the complainant or MHA fails to appear at the scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for not to exceed five (5) business days, or may make a determination that the party has waived has right to a hearing. [966.56 (d)]

The complainant must by physically present for a hearing. Legal counsel or other representative of the complainant may not appear at a hearing on behalf of Complainant unless complainant is physically present at the hearing.

Both the complainant and MHA shall be notified of the determination by the Hearing Officer; provided, that a determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest MHA’s disposition of the grievance in court. [966.56 (d)]

XII. Decision of the Hearing Officer [966.57]

The Hearing Officer shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the hearing. A copy of the decision shall be sent to the complainant and the MHA.

MHA shall retain a copy of the decision in the Tenant's folder. A copy of the decision with all names and identifying references deleted shall also be maintained on file by the MHA and made available for inspection by a prospective complainant, his representative, or the Hearing Officer.

XIII. Reasonable Accommodation in the Grievance Procedure

MHA will provide reasonable accommodation for a person with disabilities throughout the grievance process. This includes, but is not limited to, accommodating residents with disabilities by accepting grievances by mail or having MHA staff reduce an oral request to writing, providing accommodations in the hearing by providing qualified sign language interpreters, readers, and/or accessible locations.
XIV. Review Request From Applicants For Housing

Applicants who are determined ineligible, who do not meet MHA's admission standards, or where MHA does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for their ineligibility, and offering them an opportunity for an Informal Review.

Applicants must submit their request for an Informal Review to MHA within ten (10) business days from the date of the notification of their ineligibility.

If the applicant requests an Informal Review, MHA will schedule a meeting within ten (10) business days of receiving the request. MHA will notify the applicant of the place, date, and time. An impartial manager will conduct the informal meeting. The manager who conducts the meeting cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant may bring to the meeting any documentation or evidence s/he wishes and the evidence along with the data compiled by MHA will be considered by the manager.

The manager will make a determination based upon the merits of the evidence presented by both sides. Within ten (10) business days of the date of the review, the manager will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

The Grievance Procedures for Public Housing tenants do not apply to MHA determinations that affect applicants.

XV. Hearing and Appeal Provisions for "Restrictions on Assistance to Non-Citizens"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the MHA hearing process is pending, but assistance to an applicant may be delayed pending the outcome of the hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, MHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with MHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give MHA a copy of the appeal and proof of mailing or MHA may proceed to deny or terminate. The time period to request an appeal may be extended by AI-IA for good cause.

The request for a MI-IA hearing must be made within ten days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within ten days of receipt of that notice.
After receipt of a request for an Informal Hearing, the hearing is conducted as described in the "Grievance Procedures" section of this chapter for both applicants and participants. If the Hearing Officer decides that the individual is not eligible, and there are no other eligible family members, the MHA will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, MHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

Head of Household: ________________________________

Adult Household Member: ________________________________

Adult Household Member: ________________________________

Date: _________________