HOUSING AUTHORITY OF COOK COUNTY

PUBLIC HOUSING PROGRAM ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

Attachment to the FY2021 Annual Plan

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CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the County of Cook (HACC) is a public housing agency (PHA) that acts as a quasi-governmental body created and authorized by state law to develop and operate housing and housing programs for low-income families. HACC endeavors to provide decent, safe, and sanitary affordable, housing to low and very low-income families. HACC receives subsidies to operate and maintain its public housing program from the United States Department of Housing and Urban Development (HUD). HACC is not a federal agency, but enters into Annual Contribution Contracts (ACC) with HUD for each public housing unit. The ACC agreement sets forth some of the requirements that must be followed to ensure funding from HUD. HACC must also comply with federal laws, state laws, regulations, and HUD notices. This document serves as the policy that aligns the policies and practices of HACC related to the admission and continued occupancy of families who participate in the public housing program.

The Admission and Continued Occupancy Plan (ACOP) contains policies that support the objectives in the HACC's Agency Plan. These policies are comprehensive however; federal regulations, HUD guidebooks, notices and applicable state and local laws govern any issues related to public housing not addressed in this ACOP. This ACOP has been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

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

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

There are three parts to this chapter:

Part I: The Housing Authority of Cook County (HACC). This part includes a description of HACC, 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: HACC

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF THE HACC

Public housing is funded by the federal government and administered by The Housing Authority of the County of Cook for the jurisdiction of the County of Cook.

Towns in Suburban County of Cook within the jurisdiction of the Housing Authority's public housing division:

Alsip
Argo (Part of Summit)
Arlington Heights
Barrington*
Barrington Hills*
Bartlett**
Bedford Park
Bellwood
Berkeley
Berwyn
Blue Island
Bridgeview
Broadview
Brookfield
Buffalo Grove*
Burbank
Burnham
Burr Ridge**
Calumet City
Calumet Park
Chicago Heights
Chicago Ridge
Country Club Hills
Countryside
Crestwood
Des Plaines
Dixmoor
Dolton
East Hazel Crest
Elk Grove Village
Elmwood Park
Evanston
Evergreen Park
Flossmoor
Ford Heights
Forest Park
Forest View
Franklin Park
Glencoe
Glenview
Glenwood
* Partly in Lake County

Golf
Hanover Park**
Harvey
Harwood Heights
Hazel Crest
Hickory Hills
Hillside
Hines
Hodgkins
Hoffman Estates**
Hometown
Homewood
Indian Head Park
Inverness
Justice
Kenilworth
LaGrange
LaGrange Highlands
LaGrange Park
Lansing
Lemont
Lincolnwood
Lynwood
Lyons
Markham
Matteson
Midlothian
McCook
Melrose Park
Merrionette Park
Morton Grove
Mount Prospect
Niles
Norridge
Northbrook
Northfield
Northlake
North Riverside
Oak Forest
Oak Lawn
Orland Park
**Partly in DuPage County

Olympia Fields
Orland Hills
Palatine
Palos Heights
Palos Hills
Palos Park
Park Forest
Park Ridge
Phoenix
Posen
Prospect Heights
Richton Park
River Forest
River Grove
Riverdale
Riverside
Robbins
Rolling Meadows
Roselle**
Rosemont
Sauk Village
Schaumburg
Schiller Park
Skokie
South Barrington
South Chicago Heights
South Holland
Steger***
Stickney
Stone Park
Streamwood**
Summit
Thornton
Tinley Park
Westchester
Western Springs
Wheeling
Willow Springs
Wilmette
Winnetka
Worth
***Partly in Will County

HACC is governed by a board of officials called "Commissioners". HACC will hereinafter refer to the "Board of Commissioners" as the "Board" when discussing the board of governing officials in this document.

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

The principal staff member of HACC is the Executive Director (ED), who is selected and hired by the Board. The ED oversees the day-to-day operations of HACC and is directly responsible for carrying out the policies established by the Board. The ED's duties include hiring, training, and supervising HACC'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.

1-I.C. HACC's MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

HACC's mission is to promote:

- adequate and affordable housing,
- economic opportunity, and
- a suitable living environment free from discrimination.

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

As a public service agency, HACC is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, HACC 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 HACC'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 HACC's support systems and commitment to our employees and their development.

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

PART II: THE PUBLIC HOUSING PROGRAM

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

The 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-II.B. PUBLIC HOUSING PROGRAM BASICS

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

The job of HACC pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. HACC screens applicants for public housing and, if they are found eligible and accepted, HACC offers the applicant a unit. If the applicant accepts the offer, HACC 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 HACC 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 HACC owns the public housing development, HACC is the landlord. HACC 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 HACC policy.

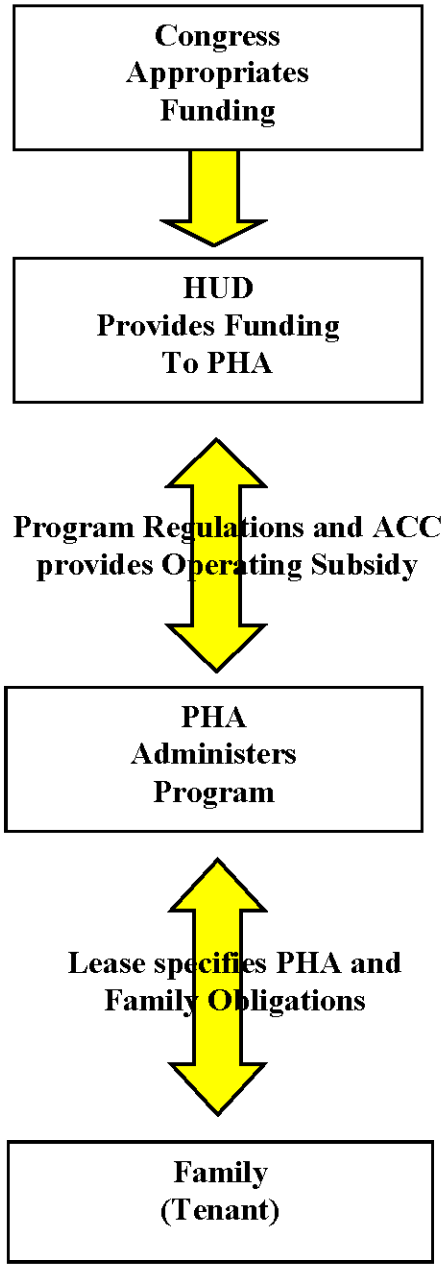
1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, HACC enters into a contractual relationship with HUD through the ACC. HACC 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, HACC, and the Tenant – must play their important parts.

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

The Public Housing Relationships



What does HUD do?

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

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

What does HACC do?

HACC's responsibilities originate in federal regulations and the ACC. HACC 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 HACC 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, ACC, HUD-approved applications for funding, HACC'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 HACC with complete and accurate information, determined by HACC to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by HACC
- Allow HACC 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 HACC 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 HACC 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 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1 III.A. 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 HACC's written policy. The ACOP plan covers HACC policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any HACC admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening HACC's waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- 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 HACC of amounts the family owes HACC (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring HACC 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 HACC's public housing operations.

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

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of HACC 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, the Americans with Disabilities Act (ADA) and the ADA Amendment, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require HACC 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.

HACC 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 and its amendments, which describe specific housing rights of persons with disabilities.
- The Age Discrimination Act of 1975, and its amendments, which establishes certain rights of the elderly.
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern), and the Americans with Disabilities Amendment Act.
- The Architectural Barriers Act of 1968
- Illinois Human Rights Act, 775 ILCS Section 5/1-101, et seq.
- Cook County Human Rights Ordinance
- Violence Against Women Reauthorization Act of 2005 (signed into law January 5, 2006, as amended and applicable. This Act provides, in part, assisting victims of domestic violence, sexual violence, dating violence, and stalking, maintaining confidentiality of information received, nondiscrimination of victims, and sharing information between agencies or departments; and
- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (77 FR 5662) ("Equal Access Rule" or "rule")
- 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.

2-I.B. NONDISCRIMINATION

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

HACC 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.

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

HACC 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
- Deny admission to any applicant or assistance to any tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual violence, or stalking, if the applicant or resident otherwise qualifies for assistance or admission.

Providing Information to Families

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

Discrimination Complaints

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

- Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify HACC either orally or in writing.
- HACC will attempt to remedy discrimination complaints made against HACC.
- HACC will provide a copy of a discrimination complaint form (see sample on following page) to the complainant, and provide them with information on how to complete and submit the form to the HACC. The HACC will also provide the complaint with information on filing a formal complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO).

SAMPLE

DISCRIMINATION COMPLAINT FORM
(FOR TENANTS)

CLIENT NO: _____

UNIT NO: _____

DATE: _____

NAME OF HEAD OF HOUSEHOLD: _____

STREET ADDRESS: _____ APT NO: _____

CITY & STATE: _____ ZIP: _____

TELEPHONE NO: _____

NAME OF HOUSEHOLD MEMBER WHO IS BEING DISCRIMINATED AGAINST: (If different from Head of Household) _____

RELATIONSHIP TO HEAD OF HOUSEHOLD: _____

WHO IS THIS CLAIM AGAINST? _____

STATE NATURE OF DISCRIMINATION BELOW: (Please include any and all dates, times, and locations of alleged occurrences.)

_____

_____

_____

_____

_____

_____

_____

_____ _____

SIGNATURE OF HEAD OF HOUSEHOLD DATE

RETURN FORM TO:
HOUSING AUTHORITY OF THE COUNTY OF COOK
ATTN: EXECUTIVE DIRECTOR
175 WEST JACKSON BLVD, SUITE 350
CHICAGO, ILLINOIS 60604

EQUAL HOUSING OPPORTUNITY

The Housing Authority of the County of Cook does not discriminate in the admission or access to this program on the basis of race, color, religion, ethnic origin, gender, source of income, disability, age or familial status.

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.

HACC must ensure that persons with disabilities have full access to HACC's program 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].

HACC must provide a notice to all potential applicants that they may, at any time, request reasonable accommodation of a disability of a household member, including reasonable accommodation from its policies and procedures, application intake, and or form of communication

HACC must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a disability 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)].

- HACC 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 HACC, 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."

For <u>all</u> applicants and <u>all</u> resident families, at the time of entry and at annual reexamination:

- HACC will make an inquiry into an applicant's ability to meet the requirements of tenancy;
- HACC will ask all applicants if the applicant is a current illegal drug abuser;
- HACC will make an inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability (such as a sensory equipped unit);
- HACC will make an inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability. This means that HACC may ask applicants if they need units with accessible features.
- HACC will not ask if an applicant for a dwelling unit has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or
- Ask about the nature or extent or severity of a disability.

2-II.A.(a) MANAGER LIST

An updated listing of the HACC's current housing portfolio can be obtained from the Corporate Office or one of the developments in your community.

2-II.A.(b) CORPORATE OFFICE:

175 West Jackson Blvd., Suite 350
Chicago, IL 60604-3042

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for HACC, 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), HACC 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
- Transferring a tenant from a unit that cannot be made accessible to a unit that is accessible
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms or strobe-type flashing light smoke detectors for hearing impaired persons
- Allowing a HACC-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 for a family member with a disability in a property where no pets are allowed or the size of the animal is limited
- Making large type documents, or a reader available to an applicant or tenant with a vision or cognitive impairment during interviews or meetings with HACC’s staff
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACC Staff
- Displaying posters and other housing information in locations throughout HACC'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 HACC 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 HACC's program and services.

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

HACC Policy

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

FORMS ARE MADE AVAILABLE IN THE CENTRAL OFFICES, AND THE CORPORATE OFFICE AT 175 W. JACKSON BOULEVARD, SUITE 350, AND ARE POSTED ON THE WEBSITE AT WWW.THEHACC.ORG.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights Definition for Persons with a Disability 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 program eligibility, waiting list preferences and income allowances.

Before providing an accommodation, HACC 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 HACC's program and services.

If a person's disability is obvious or otherwise known to HACC, 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 HACC, HACC 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, HACC 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]
- HACC must request only information that is necessary to evaluate the disability-related need for the accommodation. HACC 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]

HACC 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 HACC, or fundamentally alter the nature of HACC'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 HACC 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, HACC shall 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 HACC may verify the need for the requested accommodation, including but not limited to obtaining third party verifications.

To show that a requested accommodation may be necessary there should be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

HACC Policy:

After a request for an accommodation is presented, HACC will respond, in writing, within 30 calendar day, so long as all information is contained in the file, and/or will request additional information within that time.

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

If HACC 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 HACC's operations), HACC 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 HACC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HACC 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 HACC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

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

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

HACC Policy

To meet the needs of persons with hearing impairments, the Illinois Relay Service (711) will be available to assist staff to communicate information to tenants and applicants. To help meet the needs of persons with visual impairments, large-print and audio versions of key program documents will be made available upon request. If the information is requested in these formats, *72 hours' notice* will be allotted to allow staff to make arrangements to have the materials available in alternative format.

When visual aids are used in public meetings or presentations, or in meeting with HACC staff, one on one assistance will be provided upon request, and copies of these materials will be made available to the recipient in alternative format after the meeting either via e-mail or hard copy within 72 hours if this cannot be done before the meeting or presentation.

Additional examples of alternative forms of communication are sign language interpreters which will be provided upon request with *72 hours' notice*, having materials explained orally by HACC staff, or having a third-party representative such as a friend, relative, or advocate named by the applicant to accompany the applicant to all meetings and assist them in understanding all paperwork.

2-II.G. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01 (HA), Accessibility Notice
- 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

HACC's policies concerning physical accessibility are readily available to applicants and resident families. They can be found in three key documents, located in the Local Manager's Office or the Central Management Office (CMO).

- This policy, the Admissions and Continued Occupancy Policy (ACOP), describes the key policies that govern HACC's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- HACC's Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

HACC'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 HACC's grievance process [24 CFR 966.4(l)(3)(ii)].

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

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

OBLIGATIONS OF ALL FAMILIES:

Notwithstanding the above, an applicant or tenant family who has a qualified member with a disability must be able to meet the essential obligations of tenancy in the HACC Residential Lease Agreement.

If a qualified applicant or tenant family requests assistance with one of the essential obligations of tenancy, the HACC may, as a reasonable accommodation, make a referral to an individual or agency that can provide such assistance. The applicant or tenant family is not obligated to accept this service. However, if the essential obligations of tenancy cannot be met or a lease violation continues, the HACC may deny the applicant or terminate the lease of the tenant.

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

2-III.A. OVERVIEW

Language for Limited English Proficiency (LEP) persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information 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 Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register.*

HACC 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, HACC 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 HACC and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on HACC.

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, HACC will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.

HACC 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, HACC will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with HACC, and will standardize documents. Where feasible and possible, HACC 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 HACC. 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.

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

- HACC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent of HACC's residents, 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, HACC may not translate vital written materials, but shall provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials through available community services.

2-III.D. IMPLEMENTATION PLAN

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

If HACC 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 HACC's public housing program and services.

- If it is determined that HACC serves very few LEP persons, and HACC has very limited resources, HACC 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 HACC determines it is appropriate to develop a written LEP plan, the following five steps shall 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 FOR THE PURPOSE OF DETERMINING IF AN INDIVIDUAL MAY OBTAIN A REASONABLE ACCOMMODATION OR PHYSICAL MODIFICATION, NOT FOR PROGRAM ELIBIGILITY**

The Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act and the Americans with Disabilities Act (ADA) and the ADA Amendment of 2008, definitions of Individual with Handicaps and Qualified Individual with Disabilities are not the definition used to determine program eligibility. Instead, program eligibility is found under the definition from 42 USA 1437a(b)(3) of "Persons with Disabilities" and further defined in the Exhibit to Chapter 3.

The term "handicapped person" or "person with handicaps" as defined in Section 504 of the Fair Housing Act are synonymous with the term "individual with disabilities".

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 impairment.

For purposes of housing programs, 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.

Definitional Elements:

"Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems, immune, normal cell growth, circulatory, neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-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 or other seizure disorder, muscular dystrophy, multiple sclerosis, Lupus, cancer, heart disease, diabetes, emotional illness, and all other impairments arising from drug addiction and alcoholism.

"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communicating. "Major Life activities" also includes the operations

of major bodily functions, such as functions of the immune, respiratory and neurological systems.

"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.

"Is regarded as having an impairment" means 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; or has a physical or mental impairment that substantially limits one or more major life activities, only as result of the attitudes of others towards such impairment; or has none of the impairments defined in this section but is treated by a recipient as having such an impairment. (See also 24 CFR §8.3).

CHAPTER 3

ELIGIBILITY

INTRODUCTION

HACC responsibility is to ensure 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 HACC to confirm eligibility and determine the level of the family's assistance. HACC will conduct background checks to determine that current or past behavior of household members does not include activities that are prohibited by HUD or any of HACC's policies.

The applicant and the applicant's family, in order to be eligible for the public housing program must:

- Qualify as a family as defined by HUD and HACC.
- 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 HACC's collection and use of family information as provided for in required forms.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HACC 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 HACC 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.

3-I.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. *Family* is defined by HUD as a single person or a group of persons, a family with a child or children, two or more elderly or disabled persons living together, and one or more elderly or disabled persons living with one or more live-in aides. Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (77 FR 5662) ("Equal Access Rule" or "rule"). HACC may not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted or HUD-insured housing for purposes of determining eligibility or otherwise making such housing available. The term "family" includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status

HACC Policy

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

To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, HACC will require applicants to demonstrate that the individuals have lived together previously, or certify that each individual's income and other resources will be available to meet the needs of the family.

Household

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

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

Family Break-up

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. While a family is living in public housing and breaks up into two otherwise eligible families, only one of the new families will continue to be assisted. In the event of a separation by a court's disposition of property in a divorce or separation decree, HACC will abide by the court's determination. In the absence of a judicial decision or an agreement among the original family members, HACC will

determine which family retains their placement on the waiting list, or will continue in occupancy

by the following factors:
The interest of any minor children, including custody arrangements; The interest of any ill, elderly, or disabled family members; Any possible risks to family members as a result of domestic violence or criminal activity; The recommendations of social service professionals; and The primary leaseholder or initial applicant.

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

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

HACC 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-I.E. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse is defined as, the marriage partner of the head of household.

HACC Policy

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. HACC does not recognize "common law" marriages, as defined by state law (Illinois Marriage and Dissolution of Marriage Act 750 ILCS 5/214).

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

HACC Policy

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

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

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

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

Joint Custody of Dependents

HACC 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, HACC 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 5.603]

A *full-time student* (FTS) is defined as, 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 defined as, a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities and Eligibility for the Program:

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

As discussed in Chapter 2, HACC 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. The definitional elements of a person with disabilities for the purpose of a reasonable accommodation are defined in Exhibit 2-1 at the end of Chapter 2.

Disabled Family

A *disabled family* is defined as, one in which the head, spouse, or co-head 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 HACC from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

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

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

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

HACC Policy

HACC may ban visitors who violate HACC's lease terms including but not limited to activities that may threaten the health or safety of HACC staff and tenants.

A resident family must notify HACC 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.

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.

Former Tenants who have been evicted are not allowed on HACC property at all.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults is defined as, 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].

HACC 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

HACC Policy

Generally an individual who is or is expected to be absent from the public housing unit for 30 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 30 consecutive days or 90 cumulative days in a 12 month period is considered permanently absent and no longer a family member (Family member may request an extension based upon exigent circumstances or for a reasonable accommodation). Exceptions to this general policy are discussed below.

Absent Students

HACC 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 HACC 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.

HACC Policy

If a child has been placed in foster care, HACC 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 Co-head

HACC Policy

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

Individuals Confined for Medical Reasons

HACC 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, HACC 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. The temporary absent family member or his or her court appointed guardian/Power of Attorney, must submit and execute all necessary documents for continued occupancy. This includes, but is not limited to Annual Recertification Applications, notices and lease amendments.

Return of Permanently Absent Family Members

HACC Policy

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

3-I.M. LIVE-IN AIDE

Live-in aide is defined as 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].

HACC will approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, and as described in Chapter 2 of this policy, 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.

HACC 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.

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.

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

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

The person has a history of drug-related criminal activity or violent criminal activity; or

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

Within 30 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, HACC will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

Extremely low-income family. A family whose annual income does not exceed 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.

HACC's Current Income Limits

Annual Gross Income may not exceed limits as established for the locality by HUD and subject to periodic HUD modifications. HACC will use the most current HUD predetermined Income Limits for Cook County, which can be located on HUD's website (www.hud.gov).

In the following developments, the dwelling units shall be available for leasing by Low Income Families, Very Low-Income Families and Extremely Low-Income Families:

25-05 Sunrise Apartments

25-29 Evanston Scattered Sites

25-52 Summit Senior Housing

25-98 Evanston Scattered Sites

25-99 Wheeling Scattered Sites

25-100 Riverdale Senior Housing

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

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

If admissions of extremely low-income families to HACC's housing choice voucher program during HACC's fiscal year exceed the 75 percent minimum-targeting requirement for that program, such excess shall be credited against HACC'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 HACC's fiscal year
- Ten percent of waiting list admission to HACC's housing choice voucher program during HACC's fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

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

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 HACC's Limited English Proficiency (LEP) 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 HACC to request additional documentation of their status, such as a passport.

HACC Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless HACC 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 HACC 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 Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

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. HACC 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)]

HACC 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 HACC that the individual or at least one family member is eligible [24 CFR 5.512(a)].

HACC Policy

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

When HACC 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, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with HACC. The informal hearing with HACC 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 14.

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

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

If an individual qualifies for a time extension for the submission of required documents, HACC 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.

HACC Policy

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216]

Every family member must provide documentation of a valid Social Security Number (SSN) [24 CFR 5.216 (e)]. Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN. When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following (please refer to HACC Policy) to the processing entity at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s): [24 CFR 5.216 (i)]
Addition of new household member who is under the age of 6 and has no assigned SSN. (A) When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new child within 90 calendar days of the child being added to the household. [24 CFR 5.216 (ii)]

HACC Policy

HACC will accept the following documents as evidence of the SSN:
An original SSN card issued by SSA;
An original SSA-issued document, which contains the name and SSN of the individual (Notice-PIH 2010-3)

Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is also provided in Chapter 7.

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

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

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

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

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits HACC to deny admission based on certain types of current or past behaviors of family members as discussed in this part.

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

HACC abides by its mission to provide safe housing to its residents. For that reason, HACC adopts a policy that prohibits admission or tenancy into any public housing program if an applicant or resident has been convicted or even engaged in certain criminal activity or if HACC 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 HACC prohibit admission for a prescribed period of time after some disqualifying behavior or event, HACC may choose to continue the prohibition for a longer period of time [24 CFR 960.203 (c) (3) (ii)].

HUD requires HACC 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 HACC to admit an otherwise-eligible family if the household member has completed an HACC-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).

  HACC Policy

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

- HACC 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] '*Illegal drug*' in the State of Illinois also means any (i) substance as defined and included in the Schedules of Article II of the Illinois Controlled Substances Act, (ii) any cannabis as defined in Section 3 of the Cannabis Control Act, or (iii) any drug as defined in paragraph (b) of Section 3 of the Pharmacy Practice Act which is obtained without a prescription or otherwise in violation of the law.(740 ILCS 120/12) '*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)].

HACC Policy

Currently engaged in is defined as any use of illegal drugs during the previous 12 months. HACC 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.

HACC Policy

In determining reasonable cause, HACC will consider all credible evidence, including but not limited to, any record of convictions, conduct underlying arrests and evidence that household member engaged in the conduct, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. 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.

HACC Policy

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance.

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

HACC Policy

If any household member is currently registered or is subject to registration as a sex offender under a state registration requirement, such as the State of Illinois 10 year registration requirement, regardless of whether it is a lifetime registration requirement, the family will be denied assistance.

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

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

Criminal Activity [24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), public housing authorities that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories, receive points.

HACC is responsible for screening family behavior and suitability for tenancy. In doing so, HACC 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.

HACC POLICY

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past 3 years the family may be denied admissions.

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 HACC staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

If any household member has ever been convicted at any time of murder, voluntary manslaughter, elder abuse, criminal sexual conduct, including but not limited to sexual assault, incest and lewdness may be denied assistance.

Evidence of such criminal activity includes, but is not limited to any record of convictions, conduct underlying arrests and evidence that household member engaged in the conduct, or evictions for suspected drug-related or violent criminal activity of household members within the past 3 years.

In making its decision to deny assistance, HACC will consider the factors discussed in Section 3-III.E, and will consider drug use or possession of cannabis within the past 3 years. Upon consideration of such factors, HACC 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 HACC to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

HACC Policy

HACC may deny admission to an applicant family if HACC determines that the family:

Has a record of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years, which may adversely affect the health, safety, or welfare of other tenants

Has a record of eviction from housing or termination from residential programs (considering relevant circumstances)

Owes rent or other amounts to this or any other HACC or owner in connection with any assisted housing program within the past 10 years

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 HACC personnel *Abusive or violent behavior* towards HACC personnel includes but is not limited to 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, HACC will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, HACC may, on a case-by-case basis, decide not to deny admission.

HACC 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

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

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

HACC Policy

HACC will perform criminal background checks through 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, the household member must show proof that the inconclusive matter has been resolved.

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

If HACC proposes to deny admission based on a criminal record or on lifetime sex offender registration information, HACC 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(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes HACC to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, HACC 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 HACC 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 a 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 HACC has made a final decision to either approve or deny the admission of such person.

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

HACC will abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

HACC Policy

HACC will request, before any family is admitted, information from drug abuse treatment facilities to determine whether certain household members are currently engaging in illegal drug activity.

HACC will only request such information for 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 their residents. Such household members will be required to sign one or more consent forms that request any drug abuse treatment facility to inform the HACC of such information.

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

HACC is responsible for the screening and selection of families to occupy public housing units. HACC 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.

HACC Policy

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

Payment of rent and utilities

Caring for a unit and premises

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

Criminal activity that is a threat to the health, safety, or property of others

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B. and C.

Compliance with any other essential conditions of tenancy

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

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

HACC Procedure

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

Past Performance in Meeting Financial Obligations, Especially Rent

HACC and landlord references for the past 5 years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether HACC/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. HACC 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 HACC 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 HACC 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 HACC, 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

HACC and landlord references for the past 5 years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

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

Evidence

If there are potentially negative items relating to an applicant's criminal background that might no longer apply, applicants will have an opportunity to present information regarding these items at the eligibility interviews. The documentation provided must clarify prior circumstances, demonstrate changes to circumstances and show positive changes have been made to increased education, employment, and/or volunteerism. Specific documents that may serve as evidence include but are not limited to certificates of completion, diplomas, or letters of recommendation. Upon consideration of such documents and factors discussed in Section 3-III.E., HACC may, on a case-by-case basis, decide not to deny assistance and no informal hearing would be necessary.

HACC Policy

HACC 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 HACC 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 HACC 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, HACC may give consideration to factors, which might indicate a reasonable probability of favorable future conduct.

HACC Policy

HACC will consider the following factors when 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

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

HACC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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

HUD permits HACC 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.

HACC 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 HACC request.

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If HACC 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 HACC 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)].

HACC Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, HACC 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 the HACC to dispute the information within that 10-day period, HACC 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.

EXHIBIT 3-1: DEFINITION RELATED TO DISABILITIES FOR PROGRAM ELIGIBILITY

Person with Disabilities [24 CFR 5.403]

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

a. Has a disability, as defined in the Social Security Act, at 42 U.S.C. Section 423(d)(1)(A),

b. Has a physical or mental impairment that:

i. Is expected to be of long, continued and indefinite duration;

ii. Substantially impedes his/her ability to live independently, and

iii. Is of such nature that such disability could be improved my more suitable housing conditions.

c. Has a developmental disability as defined in Section 102 (5)(b) of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(5).

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.

CHAPTER 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

The waiting list is the mechanism used to implement the order in which housing offers are made to qualified applicants. Any family that wishes to reside in public housing must submit an application that provides HACC with the information necessary to determine the family's eligibility. Eligible families are placed on the waiting list in accordance with HUD regulations [24 CFR 960.103, PH Occ. GB p. 13] that affirmatively further fair housing. When a unit becomes available; specific selection processes are followed, families from the waiting list are selected sequentially by time and date, but this order can be affected by families' characteristics designed to receive preferential treatment.

Adherence to the selection policies described in this chapter ensures HACC will be in compliance with all relevant fair housing requirements as described in Chapter 2. HACC's policies for assigning unit size and making unit offers are contained in the next chapter. Together, this chapter and Chapter 5 comprise HACC'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 HACC will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how HACC'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 HACC will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide HACC in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that HACC 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 HACC'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 HACC's obligation to ensure the accessibility of the application process.

Additionally, HACC will conduct affirmative marketing as needed so that people of all races, ethnic backgrounds, ages (when age eligibility is not a factor) and disabilities are given an equal opportunity to access HACC's housing programs. The marketing plan will take into consideration the number and distribution of vacant units, units that can be expected to become vacant because of move-outs, and characteristics of families on the wait list. The HACC will review these factors regularly to determine the need for and scope of marketing efforts. All marketing efforts will include outreach to those least likely to apply

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits HACC to determine the format and content of its applications, as well as how such applications will be made available to interested families and how applications will be accepted by HACC.

1. HACC, or the local development, will inform the public through newspaper or other public media that the waiting list is open. The notification may include the specific or limited bedroom sizes or type of housing (senior or family) for which applications are being solicited.

2. Instructions for where, how, and when pre-applications may be obtained and returned will be outlined in the public notice.

3. Pre-applications are the first step to being placed on the HACC/Development waiting list(s).

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

HACC will 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 HACC application process.

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

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

Limited English Proficiency (LEP)

HACC is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP [24 CFR 1]. Chapter 2 provides a full discussion on HACC's policies related to ensuring access to people with LEP.

4-I.D. PLACEMENT ON THE WAITING LIST

HACC will review each completed pre-application received and make a preliminary assessment of the family's eligibility. HACC will place on the waiting list families for whom the list is open unless HACC determines the family to be ineligible. Where the family is determined to be ineligible, HACC will 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.

PRE-APPLICATION PROCESSING

☒ The HACC/Development(s) will use pre-applications.

A. Distribution of Pre-Application Forms or Pre-Applications

1. A letter will be sent to households who respond to the marketing efforts. This letter will include a Pre-Application Form or Pre-Application to be completed and mailed to HACC. This letter will also inform persons about the Development's preferences and will indicate that all applicants will be given an opportunity to show that they qualify for a preference.

2. The letter will state that those persons qualifying for a preference will receive housing before any other applicant who is not so qualified.

3. In addition, the letter will inform all applicants that for those persons not claiming a preference, screening will be conducted according to the order in which the Pre-Applications are received by the Authority.

4. All returned Pre-Application Forms or Pre-Applications will be logged in, indicating the date received by the Authority. The Pre-Application log will indicate whether the applicant has claimed a preference or has requested a handicapped accessible unit.

B. Processing Pre-Applications

1. Pre-Application Forms or Pre-Applications will be filed in the order of receipt. In addition, Pre-Application Forms or Pre-Applications will also be categorized according to preferences, unit size and Special Occupancy Categories.

2. All persons making inquires will be provided a Pre-Application Form or Pre-Application with instructions to mail this Pre-Application Form or Pre-Application to HACC. Pre-Application Forms or Pre-Applications received after initial sorting will be categorized in accordance with the process stated above.

3. For Developments beginning their initial marketing efforts (start-up), no Pre-Application Forms or Pre-Applications will be accepted after the date on which 95% occupancy of the Development has been reached and the applicable Waiting List has been closed.

4. For Developments, which have completed their initial marketing efforts (Up and Running), no Pre-Application Forms or Pre-Applications will be accepted after the date on which the applicable Waiting List has been closed.

5. All Pre-Application Forms or Pre-Applications will be retained on-site permanently.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW:

HACC maintains wait lists and applies a preference in the selection of applicants from its wait lists. It is the policy of HACC to strive for objectivity and consistency when applying both HUD and HACC's criteria for admission. When units become available and applicants' names near the top of the wait lists, the HACC will conduct a review to determine eligibility, suitability for admission, as well as verifying any claimed preferences. Only families and individuals that meet all of the HACC's eligibility criteria and pass applicant screening will receive a unit offer for public housing. The HACC will house applicants in accordance with the available housing stock.

4-II.B. ORGANIZATION OF THE WAITING LIST

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

HACC Policy

The waiting list will contain, at a minimum, 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 (For statistical purposes only) of the head of household

HACC administers Site Based waiting lists for all the Elderly and Elderly/Disabled Developments and Family/Scattered sites. Site-based method of maintaining the waiting list will allow families to select the developments where they wish to apply and reside consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7 (b) (2), and 24 CFR 960.201 through 960.208].

A. Creation of Waiting List(s)

- All applicants will be maintained in order or preference. For applications with no preference indicated the applicants will be placed on the waiting list by date received by the Authority. Applications equal in date received by the Authority will be ranked by HACC's computer software program which will assign random lottery numbers.

B. Changes in Income or Household Composition

When placed on the Waiting List, applicants will be informed to notify HACC when the following changes occur:

- Address and/or phone number
- Household composition
- Preference status
- Income (Optional)

If an applicant's income changes to an amount which is no longer eligible, written notice will be given advising the applicant that: (1) they are not presently eligible; (2) the applicant could be eligible if the household income decreases, the number of household member changes, or the Income Limit changes; and (3) they may choose to remain or not remain on the Waiting List.

If an applicant's household composition changes resulting in a need for a different apartments size, HACC will, upon notification by applicant, place the applicant on the appropriate Waiting List. HACC's policies for handling changes in household composition are indicated below:

☒ Applicant will maintain original application date. (Applicant will be placed on new bedroom list according to original application date.)

C. Contacting Persons on the Waiting List(s)

1. Applicants on the Waiting List will be contacted as follows:

When a unit becomes or will become available within **60** days, HACC will select a minimum of 5 applicants or more who meet applicable preference criteria and whose names are chronologically at the top of the appropriate Waiting List. HACC will contact the selected applicant utilizing the following procedure: (i.e. *certified mail, regular mail, telephone or other.)*

Applicants, who respond timely and accept the offered unit, will be contacted to schedule an interview. This represents the beginning of the screening process. Those applicants who do not respond timely or who do not accept the offered unit will be processed in the manner indicated below:

If HACC does not receive a response within **5 business** days, the applicant will forfeit the opportunity to apply for the offered unit

a. If HACC does not receive a timely response within 5 business days, the applicant forfeits the opportunity to apply for the offered unit. The applicant will be removed from the applicable wait list.

b. If HACC receives a timely response but the applicant rejects the unit offered, the applicant will be removed from the applicable wait list.

Ineligible for Placement on the Waiting List

HACC Policy

If HACC can determine from the information provided that a family is falsified, illegible, or if the information indicates the family is ineligible for assistance, the family will not be placed on the waiting list. Where a family is determined to be ineligible, HACC will send written notification of the determination within 10 business days from the day the application is deemed denied. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

HACC Policy

Based on the size of the waiting list, or the number of applicants who responded to the solicitation, HACC may, or may not send a written notification that the preliminary application has been received. Applicants should follow the instructions in the application notification to confirm HACC has received their applications.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. Applicants will be placed on the Wait List(s) according to HACC preference(s), and date (applications equal in date received will be ranked by HACC's computer software program which will assign random lottery numbers.)

Applicants will be placed on the waiting list according to HACC preference(s), Date, and time. HACC 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 HACC 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.

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 HACC 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)].

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

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

Re-opening the Waiting List(s)

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.

HACC will give public notice by publishing the relevant information in suitable media outlets such as, but not limited to:

- La Raza Newspaper
- Pioneer Press
- The Daily Southtown
- Star Newspaper
- Chicago Sun-Times

- Chicago Daily Defender

The Waiting List(s) will be re-opened when HACC determines that more applications are needed for any, some, or all bedroom sizes. HACC may open for applications for the specific bedroom sizes needed at any time, with appropriate public notice. HACC must document that all the existing eligible applicants on the list for the bedroom size to be advertised has been received fair opportunity to respond to notification of availability, and has either not responded, is not eligible, or declined the opportunity to lease per the HACC's policies.

Closing the Waiting List [PH Occ GB, p. 31].

The Waiting List(s) for the Development will be closed when, in HACC's opinion, the list contains an adequate number of names to support prompt leasing of vacant units for a twelve-month period, by bedroom size. HACC may close applications for specific bedroom sizes, or allow specific bedroom sizes to remain open until an adequate number of eligible applications are obtained.

When HACC decides to close the Waiting List(s), future applicants will be advised that the Waiting List(s) are closed and additional applications will not be taken. When HACC decides to no longer accept applications, a notice to that effect will be published in newspaper(s) of general circulation for either the County of Cook (for the Agency Wide Waiting Lists) or the cities or communities served by the development.

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

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

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

- HACC's outreach efforts comply with fair housing requirements.
- HACC's outreach efforts are designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:
- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population

- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities.

4-II.E. UPDATING THE WAITING LIST

HUD requires HACC 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 HACC's request for information or updates because of the family member's disability, HACC will, upon receipt of the family's request, make a determination on the merits of reinstating the applicant family to their former position on the waiting list as a reasonable accommodation. The applicant family will be notified in writing within 30 calendar days of receipt of the requests by HACC. [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.

1. The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.
2. To update the waiting list, HACC will send an update letter via first class mail to all applicants it expects to be able to assist in the next 12 months, at a minimum. HACC may also choose to send update letters to more applicants if it deems it necessary based on the number of applicants on the wait list. This update request will be sent to the last address that HACC 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.
3. The family's response must be in writing and must be delivered as directed in the letter. Responses should be postmarked or received by HACC not later than the time and date specified in the letter, which will provide at least 30 calendar days from the date of HACC's letter.
4. If the family fails to respond within the 30 calendar days the application will be removed from the applicable wait list(s).
5. 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.
6. If the notice is returned by the post office for any reason other than insufficient postage, the application will be removed from the waiting list without further notice.
7. If the HACC is responsible for the non-delivery the notice will be re-sent to the address indicated. The family will have the time specified in the original notice 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.
8. 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 HACC from making an eligibility determination; therefore, no informal hearing is required.

9. If a family is removed from the waiting list for failure to respond, the ED or his/her designee may reinstate the family if s/he determines the lack of response was due to HACC error, or to circumstances beyond the family's control.

Removal from the Waiting List

- HACC will remove applicants from the waiting list if they have requested that their name be removed.
- If HACC 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 HACC 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 HACC's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

HACC has established tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. HACC will not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. HACC will 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)].

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

4-III.B. SELECTION METHOD

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

Local Preferences [24 CFR 960.206]

HACC is permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits HACC to establish other local preferences, at its discretion. Any local preferences established must be consistent with HACC 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)].

PREFERENCES

A. Establishing Preferences

Preferences are not permitted if they in any way negate affirmative marketing efforts or fair housing obligations. The following preferences apply to the Development:

Existing Tenant Preferences (For Federally Assisted Housing Programs)

The following actions are always given priority if applicable.

a) A unit transfer because of household size.

b) A unit transfer based on the need for an accessible unit.

c) A unit transfer of a non-handicapped individual living in a handicapped accessible unit to accommodate a handicapped applicant on the Waiting List (as defined below). A lease addendum will be entered into with non-handicapped tenant living in a handicapped accessible unit.

HACC transfers Preferences:

The following transfers will take precedence over new admissions:

☒ Emergencies
☒ Reasonable Accommodation
☒ Administrative reasons determined by the PHA (e.g., under-housed, over-housed, to permit modernization work)
☒ Health and Safety (such as VAWA victims, victims of hate crimes)

Admission Preferences:

HACC has established a preference for individuals with disabilities currently transitioning from institutional settings into community-based living. This preference will apply to up to 10% of the previous fiscal year's total LIPH unit turnover and will be given the highest priority over all other preferences in effect until the HACC reaches its targeted number of placements.

To determine the targeted number, on April 1st of each year, the HACC will take the LIPH portfolio wide turnover from the previous fiscal year to calculate the 10% targeted number. HACC may place the targeted number of families qualifying for this preference before

placing other applicants or HACC may alternate placement until the targeted number is placed, depending on the unit size/type that becomes available and the needs of the applicant. Once HACC has placed the targeted number of families qualifying for this preference, the remaining system of preferences will govern placement for any additional vacancies.

HACC has established the remaining preferences for admission to public housing (other than date of application), in order of priority, as follows:

For the following sites Riverdale Senior and Summit Senior, HACC has established the remaining preferences for admission to public housing (other than date of application), in order of priority, as follows:

Age (62 and older) at all developments (including those Not designated as Senior Designated Housing) and Persons with Disabilities= 4 points
Applicants who meet the definition of homelessness= 3 points
Veterans and veterans' widows/widowers= 2 points
VAWA applicants and Victims of reprisals or hate crimes= 1 point

For the following sites, Sunrise Apartments, Evanston Scattered Sites and Wheeling Scattered Sites, HACC has established the remaining preferences for admission to public housing (other than date of application), in order of priority, as follows:

Families with children= 5 points
Applicants who meet the definition of homelessness= 4 points
Age (62 and older) at all developments (including those Not designated as Senior Designated Housing) and Persons with Disabilities= 3 points
Veterans and veterans' widows/widowers= 2 points
VAWA applicants and Victims of reprisals or hate crimes= 1 point

Definition of homelessness preference: An individual who lacks a fixed, regular and adequate nighttime residence and whose primary nighttime residence is a supervised publicly or privately-operated shelter designed to provide temporary living accommodations; OR an institution that provides a temporary residence for individuals intended to be institutionalized; OR a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Other preference(s):

For persons who have been involuntarily displaced by a federally declared disaster, or government action, the HACC has established a policy to house them, whether they are currently applicants on the wait list, to the extent that there are available vacant units in HACC's portfolio.

The HACC may exercise its option to provide preferences to applicants who are working and/or within a particular income tiers but only to comply with its de-concentration obligations.

B. Verification of Preference

Preferences will be verified by third party verification at the time applicants are selected from the Wait List(s). If HACC has selected any of the optional preferences, third party verification of the preferences will apply to the extent feasible to document applicant's qualification for the requested preference(s).

C. Selection of Families for Participation

1. An eligible applicant who qualifies for the most preference points will receive housing before any other applicant who is not so qualified. These preferences take precedence over other applicants' place on the Waiting List, or date of submission of application. Cumulative preference points will apply.

2. Applicants will be informed of the availability of preferences, and will be given an opportunity to certify that they qualify for a preference. Applicants may claim a preference at any time during the application process.

D. When a Preference Is Denied

1. If it is determined that an applicant does not meet the criteria for receiving a preference, the applicant will promptly receive a written notice of this determination from HACC. The notice will contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with HACC's designee to review this decision. If the applicant requests a meeting, it will be conducted by a person or persons designated by HACC.

2. Denial of a preference does not prevent the applicant from exercising any legal rights the applicant may have against HACC and/or Owner.

E. Exceptions to the Preference Rule

Relocation and/or Unit Transfers:

HACC gives priority to current households at their discretion:

- when their units are designated for rehabilitation and/or
- for current households residing in a HACC unit within the Development that has been designated as uninhabitable by federal, state, local municipalities or HACC due to fire, flood or other natural disaster.

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

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

HACC 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 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or HACC 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, co head, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, co head, or sole member is a person with disabilities [24 CFR 5.403]. HACC will give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. HACC 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, HACC will 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. HACC 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]

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

Among the designated developments, HACC may also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, HACC 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 co head 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, HACC will 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)].

HACC's designated housing developments are as follows:

ELDERLY DESIGNATED DEVELOPMENTS

Development / Location

- Edward Brown Apartments – Robbins
- Franklin Towers – Franklin Park
- Golden Towers I – Chicago Heights
- Golden Towers II – Chicago Heights
- Juniper Towers – Park Forest
- Riverdale Senior Housing-Riverdale
- Turlington West – Harvey
- Summit Senior Housing-Summit

ELDERLY AND DISABLED DESIGNATED DEVELOPMENTS

Development / Location

- Huntington Apartments – Niles
- Henrich House – Des Plaines
- Wheeling Towers – Wheeling

When there are insufficient elderly families on the waiting list who wish to reside in a designated elderly development, near-elderly families will receive a preference over other families for designated elderly units.

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

HACC's admission policy is designed to provide for de-concentration 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 HACC's de-concentration policies is included in its annual plan [24 CFR 903.7(b)].

HACC's de-concentration policy complies with its obligation to meet the income-targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the de-concentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. Developments not subject to de-concentration and income mixing requirements: developments operated by HACC with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by HACC 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 de-concentrate poverty and provide for income mixing in covered developments, HACC will comply with the following steps:

1. HACC will determine the average income of all families residing in all HACC covered developments. HACC will use the median income, instead of average income, provided that HACC includes a written explanation in its annual plan justifying the use of median income.
2. HACC will 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, HACC has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.
3. HACC will 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).
4. HACC, 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.
5. Where the income profile for a covered development is not explained or justified in the annual plan submission, HACC will include in its admission policy its specific policy to provide for de-concentration of poverty and income mixing.

Depending on the developments needs the de-concentration 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 de-concentration
- Providing other strategies permitted by statute and determined by HACC in consultation with the residents and the community through the annual plan process to be responsive to local needs and HACC strategic objectives

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

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

For developments outside the EIR, HACC will take the following actions to provide for de-concentration of poverty and income mixing including, but not limited to:

- 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
- Establishing preferences for families of federally-declared disasters, admissions of veterans and their spouses, and of working families in developments below the EIR (refer to Section III.B of this Chapter)
- As permitted under the regulations to de-concentrate poverty, passing over families on the waiting list to reach another family of higher income
- Provide other strategies permitted by statue in consultation with the residents and the community through the annual plan process to be responsive to local needs

Order of Selection [24 CFR 960.206(e)]

HACC's system of preferences may select families either according to the date and time of application and preferences.

1. Families will be selected from the waiting list based on the highest number of preference points and based on the date their application was received by the Authority. Preferences are cumulative. For applications with no preference indicated the applicants will be placed on the waiting list by date received by the Authority. Applications equal in date received will be ranked by HACC's current computer software program which will assign random lottery numbers

2. When selecting applicants from the waiting list, HACC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. HACC will offer the unit to at least 5 highest-ranking applicants who qualify for that unit size or type, or that requires the accessibility features. The first eligible qualified applicant who completes all screening and eligibility requirements will be offered the unit. This will not count against the applicants who were unable to provide all required documentation within HACC's timelines or to provide a deposit and they will be included in the next unit offer. After failing to accept a unit offer without good cause the applicant will be removed from the applicable waiting list.
3. To ensure the financial viability of each development HACC may pass over eligible applicants to offer units to those whose characteristics help achieve development goals such as de-concentration or income mixing and income targeting in accordance with HUD requirements and HACC policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, HACC will notify the family.

HACC 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 HACC the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents HACC from making an eligibility determination; therefore, no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

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

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability in accordance with the policies set forth herein. [See also Chapter 2 and 24 CFR 8.4(a) and 24 CFR 100.204(a)].

1. Families selected from the waiting list are required to participate in an eligibility interview.
2. The head of household is required to attend the interview. 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 HACC.
3. The interview will be conducted only if the head of household and spouse/cohead provide appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.
4. 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, HACC will proceed with the interview. If HACC 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 of the application.
5. 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, HACC will provide the family with a written list of items that must be submitted.
6. Any required documents or information that the family is unable to provide at the interview must be provided within 3 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).
7. An advocate, interpreter, or other assistant may assist the family with the application and the interview process.
8. Interviews will be conducted in English. For limited English Proficient (LEP) applicants, HACC will provide translation services in accordance with HACC's LEP plan.
9. In order to comply with HUD's leasing requirements, the HACC may move on to the next eligible responsive applicant when an applicant experiences repeated delays in attending scheduled meetings or in providing required documentation.
10. If the family is unable to attend a scheduled interview, the family should contact HACC in advance of the interview to schedule a new appointment. Failure to appear for the appointment without a request to schedule 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 HACC from making eligibility determination; therefore, HACC will not offer an informal hearing.

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

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

- HACC 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.

HACC will 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)].

- If HACC determines that the family is ineligible, HACC will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

If HACC 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 HACC can move to deny the application. See Chapter 3, Section 3-III.F. for HACC's policy regarding such circumstances.

REJECTION CRITERIA

The ability of the applicant to fulfill lease obligations will be considered. An applicant may be rejected for one or more of the following reasons:

A. Insufficient/Inaccurate Information on Application

Refusing to cooperate fully in all aspects of the application process or supplying false information will be grounds for rejection.

B. Credit and Financial Standing

1. Unsatisfactory history of meeting financial obligations (including, but not limited to timely payment of rent, outstanding judgments or a history of late payment of bills) will be considered. If an applicant is rejected based on the credit report, they will be provided with the reasons for rejection and given the name of the credit bureau that performed the credit check. Applicants will also be given 10 business days to dispute any information on the credit report.

2. The inability to verify credit references may result in rejection of an applicant. Special circumstances will be considered in which credit has not been established (income, age, marital status, etc.) and lack of credit history will not cause an applicant to be rejected. In such circumstances, a person with a history of creditworthiness may be required to guarantee the lease.

3. The applicant's financial inability to pay his/her monthly contribution toward the rent of the unit may be assessed. Ordinarily, the total of the applicant's monthly contribution plus other long-term obligations (payments extending more than twelve months) should be less than or equal to **30 - 40%** of his/her monthly gross income. Income ratios may be considered in the context of the applicant's credit and employment history and potential for increases in income.

C. Criminal Convictions/Current Drug Use

1. Applicants who fall into the following categories may be rejected:

a) current addiction to or engagement in the illegal use of a controlled substance;

b) any household containing a member(s) who was evicted in the last ten years from federally assisted housing for drug-related criminal activity (3 years for drug use or possession). Exception:if the evicted household member has successfully completed approved supervised drug rehabilitation or the circumstances leading to the eviction no longer exist (e.g. the household member no longer resides with the applicant household);

c) any household member that is subject to a state sex offender lifetime requirement;

d) any household member for whom there is reasonable cause to believe that the member's behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents. The screening standards must be based on behavior, not the condition of alcoholism or alcohol abuse;

e) any household member that has ever been convicted of arson or child molestation;

f) any household member has ever been convicted at any time of murder, voluntary manslaughter, elder abuse, criminal sexual conduct, including but not limited to sexual assault, incest and lewdness.

2. Applicants who fall into the following categories may be rejected. In addition, if other persons that will be living in the unit fall into these categories, the applicant will be rejected. criminal convictions that involved physical violence to persons or property, or endangered the health and safety of other persons within the last 3 year(s);

b) criminal convictions in connection with the manufacture or distribution of controlled substance within the last 3 year(s); or

c) persons subject to the State of Illinois Sex Offender registration requirement of 10 years, whether they have registered or not.

D. Household Characteristics

Household size or household characteristics were not appropriate for the specific type of unit available at the time of application.

E. Unsanitary Housekeeping

Housekeeping will be considered because home visits are conducted (See Section V.B). Housekeeping criteria are not intended to exclude households whose housekeeping is only superficially unclean or disorderly if such conditions do not appear to affect the health, safety or welfare of other residents.

Exception to Rejection Criteria

Extenuating Circumstances

☒ Extenuating circumstances and reasonable accommodations (see Chapters 2 and 3) will be considered in cases when applicants would normally be rejected, but the applicants will have to indicate circumstances that he/she will be an acceptable resident in the future

REJECTION PROCEDURES

Each rejected applicant will be promptly notified in writing of the reason(s) for the rejection following the policies outlined in Chapter 3, 4 & 14 of this ACOP.

CHAPTER 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

HACC policies governing occupancy of dwelling units and offering units to qualified families, follows HUD Occupancy Standards of Policy Notice" date December 18, 1998 Federal Register that states, "an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under The Fair Housing Act." This chapter contains policies for the assignment of unit size and making unit offers. HACC's Waiting List policies outlined in Chapter 4 together with this chapter comprise the Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

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

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

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by HACC 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. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors HACC will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

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

HUD does not specify the number of persons who may live in public housing units of various sizes. HACC is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although HACC does determine the size of unit the family qualifies for under the occupancy standards, HACC does not determine who shares a bedroom/sleeping room.

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

HACC will use the same occupancy standards for each of its developments.

HACC's occupancy standards are as follows:

HACC will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 5) will not be required to share a bedroom.

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

HACC will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	2
2	2	5
3	4	7
4	6	9
5	8	10 plus

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

HACC will consider granting exceptions to the occupancy standards at the family's request if HACC determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities.

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

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

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

Processing of Exceptions

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

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

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

HACC will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208
(Public Housing Occupancy Handbook)

5-II.A. OVERVIEW

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

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

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

5-II.B. NUMBER OF OFFERS

When a unit becomes or will become available within 60 days, Management will select a minimum of 5 applicant(s) who meet applicable preference criteria and whose name(s) are chronologically at the top of the appropriate Waiting List. Management will contact the selected applicant(s) utilizing the following procedure: (i.e. *certified mail, regular mail, telephone or other.)*

The applicant(s), who respond timely and accept the offered unit, will be screened following the process outlined in Chapter 4 of this ACOP. Applicants who refuse a unit offer (without "good cause" 5-.II.D) will be removed from applicable waiting list. Applicants who are on multiple waiting lists will be removed from all remaining waiting lists, once a unit offer is accepted for a specific waiting list.

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

HACC Policy

Eligible applicants must accept or refuse a unit offer within 2 business days of the unit offer.

Applicants who accept a unit offer must take possession of the unit within 30 calendar days. Tenants are required to move into their units within 15 days after signing their leases and receiving their keys.

Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

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

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

The family demonstrates to HACC'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, or risk assessments related to witness protection from a law enforcement agency. 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

The applicant has entered into a binding, contractual agreement (or lease) with a current landlord, which would cause undue financial hardship if applicant chose to release him/herself from their commitment. The applicant must provide a copy of the binding document.

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

HACC will require documentation of good cause for unit refusals.

Unit Refusal Without Good Cause

HACC Policy

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

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until HACC opens the waiting list.

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

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

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

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

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, HACC may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

HACC Policy

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

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

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

5-II.F. DESIGNATED HOUSING

When applicable, HACC's policies for offering units designated for elderly families only or for disabled families only are described in HACC's Designated Housing Plan.

CHAPTER 6

INCOME AND RENT DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. HACC 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 HACC 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 HACC policies for calculating annual income are found in Part I.

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

6-I.A. OVERVIEW

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

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) 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.C. discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in Section 6-I.D.). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

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

HACC 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

HACC 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 HACC 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].

HACC Policy

If a child has been placed in foster care, HACC 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 Co-head

HACC Policy

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

Individuals Confined for Medical Reasons

HACC 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, HACC 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

HACC 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, HACC 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

HACC Policy

If neither a parent nor a designated guardian remains in a household receiving assistance, HACC 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 HACC 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.

All caretakers and guardians are subject to the eligibility and screening requirements discussed in Chapter 3 before they can reside in the unit or become the Head of Household.

6-I.C. ANTICIPATING ANNUAL INCOME

HACC 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

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

HACC Procedure

When HACC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), HACC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to HACC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If HACC 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 $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case HACC would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 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 HACC 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 HACC's policy on reexaminations does not require interim reexaminations for other types of changes.

Using Up-Front Income Verification (UIV) to Project Income

HUD strongly recommends the use of up-front income verification (UIV). UIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [PIH Notice 2004-01 Verification Guidance ("VG"), p. 7].

HUD allows HACC to use UIV information in conjunction with family-provided documents to anticipate income.

HACC Procedure

HACC procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of HACC interview date.

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

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

If the UIV figure is less than the family's figure, HACC will use the family's information.

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

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

HACC will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When HACC cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), HACC will review historical income data for patterns of employment, paid benefits, and receipt of other income.

HACC will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

HACC will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

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

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

HACC Policy

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

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

HACC 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)(1)]

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

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c) (11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide.

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

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

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

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

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

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for HACC 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 HACC's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

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

HACC Policy

HACC 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].

HACC 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, HACC 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 HACC'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.

HACC 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 §§5.617, 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."

HACC Policy

HACC 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.

HACC Policy

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

Second 12-Month Exclusion

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

Lifetime Limitation

The EID benefit is limited to a lifetime 24-month period for the qualifying family member; The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. At the end of the 24 months, the EID ends regardless of how many months were "used."

The Final Rule as outlined in Notice PIH-2016-05 states:

Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;

 If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;

 During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment;

 During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);

HACC Policy

HACC will exclude 100 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);

Individual Savings Accounts [24 CFR 960.255(d)]

HACC has selected to not 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 HACC's public housing program.

A qualified family paying income-based rent may choose an ISA instead of being given the EID. The PHA 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

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

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

PHA Policy

When applicable, the PHA 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, the PHA must return the balance in the family's ISA, less any amounts the family owes the PHA.

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].

> To determine business expenses that may be deducted from gross income, HACC 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 HACC to deduct from gross income expenses for business expansion.

> *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 HACC to deduct from gross income the amortization of capital indebtedness.

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

> 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, HACC 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

> 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 HACC 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, HACC 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 HACC policies related to each type of asset.

General Policies

Income from Assets

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

> 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 HACC 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 HACC 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.

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

Lump-Sum Receipts

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

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

When net family assets are $5,000 or less, HACC 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, HACC 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 HACC-established passbook savings rate. HACC will review its passbook rate annually to ensure it is within 75 basis points (plus or minus .75 percent) of the Savings National Rate in effect at the time of review.

***Net Assets under $5,000 [*24 CFR §§960.259, 982.516]**

Under this provision, HACC must obtain third-party verification of all family assets upon admitting a family to the public housing program and then again at least every 3 years thereafter. During the intervening annual reexaminations, HACC has the discretion to accept a family's declaration that it has total net assets equal to or less than $5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to $5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

HACC is required to have all family members 18 years of age and older sign the family's declaration of total assets. PHA may wish to require families to submit a declaration of assets along with the consent forms that are required pursuant to 24 CFR 5.230. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, HACC must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, HACC must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the $5,000 asset threshold. If the addition of that family member's assets does not put the family above the $5,000 asset threshold, then HACC is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

Actual Anticipated Income from Assets

It may or may not be necessary for HACC 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."

If an asset is owned by more than one person, and any family member has unrestricted access to the asset, HACC will count the full value of the asset unless the family presents evidence that the asset is not effectively owned by the family member. 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. An asset is not effectively owned by a family member when (1) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family and (2) that other person is responsible for income taxes incurred on income generated by the asset.

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, HACC will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, HACC 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 HACC 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

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

> HACC 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 $2,400.
>
> When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim recertification to eliminate consideration of the asset(s).
>
> Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

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

> 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

> 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. HACC may verify the value of the assets disposed of if other information available to HACC 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.

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

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

In determining the anticipated income from an interest-bearing checking or savings account, HACC 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.

In determining the market value of an investment account, HACC 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), HACC will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

> 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 HACC 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.

None revocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see Section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> In determining the value of personal property held as an investment, HACC will use the family's estimate of the value. However, HACC also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

> Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments <u>Included</u> in Annual Income

- Periodic payments from sources such as <u>social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions</u>. 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)].
- <u>Disability or death benefits and lottery receipts</u> 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)].

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

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Periodic Payments <u>Excluded</u> from Annual Income

- Payments received for the <u>care of foster children or foster adults</u> (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  HACC 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 <u>member who has a developmental disability and is living at home</u> 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 <u>Low-Income Home Energy Assistance Program</u> (42 U.S.C. 1626(c)) [24 CFR 5.609(c) (17)]

- Amounts received under the <u>Child Care and Development Block Grant Act of 1990</u> (42 U.S.C. 9858q) [24 CFR 5.609(c) (17)]

- <u>Earned Income Tax Credit (EITC)</u> 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 <u>delays in processing Social Security and SSI payments</u> (see Section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in Section 6-I.H and the discussion of lump-sum receipts in Section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

HACC 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, HACC must include in annual income "imputed" welfare income. HACC must request that the welfare agency inform HACC 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 HACC's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

Alimony and Child Support

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

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

HACC 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)].

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- 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)]
- 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 sub-marginal 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 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 HACC 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 (HACC) 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

Generally, HACC 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), HACC will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, HACC 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. HACC may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Un-reimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

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

The most current IRS Publication 502, *Medical and Dental Expenses,* will guide HACC determination of the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not including nonprescription medicines only if recommended by a doctor * Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

HACC Policy

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

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

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, HACC 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 HACC 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 HACCs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

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

Eligible Attendant Care

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

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

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

If the care attendant also provides other services to the family, HACC 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.

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

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACC will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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, HACC 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

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 HACC.

Furthering Education

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

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.

HACC 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].

> 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, HACC 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. HACC 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

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, HACC 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.

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, HACC will use the schedule of child care costs from the local welfare agency. Families may present, and HACC 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 HACC 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.

HACC has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. 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 by HACC directly to the utility company.

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 $50.00 that is established by HACC

HACC 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 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.00.

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

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

HACC 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].

HACC Policy

HACC chooses to use a flat rent determined by a current market analysis of the general housing community of each of its developments. This analysis shall identify the value and quality of a select housing type; those in need of rehabilitation; unit size; physical characteristics; property age; amenities at the property and in immediate neighborhoods.

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 HACC to pay the reimbursement directly to the utility provider.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If HACC establishes a minimum rent greater than zero, HACC must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If HACC determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

- A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
- For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

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

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

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

(4) A death has occurred in the family.

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

(5) The family has experienced other circumstances determined by HACC.

HACC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

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

- HACC then determines whether the financial hardship exists and whether the hardship is temporary or long-term.
- HACC 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.
- If the HACC concurs with the determination that a true hardship exists that prevents the payment of rent, the HACC may choose not to 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 unless the family has not paid rent for any prior month that is still outstanding.
- When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The chart below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption HACC has established a minimum rent of $50.00	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

HACC 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.

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

No Financial Hardship

If HACC determines there is no financial hardship, HACC will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon HACC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

HACC Policy

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

Temporary Hardship

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

HACC Policy

HACC will enter into a repayment agreement in accordance with HACC's repayment agreement policy (see Chapter 16).

Long-Term Hardship

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

HACC 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, HACC 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, HACC 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]

HACC must review its schedule of utility allowances each year. Between annual reviews, HACC 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 HACC's utility allowance schedule [24 CFR 960.253(c)(3)].

HACC Policy

Unless HACC 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(d)]

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

- Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."
- Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members"). The product of this calculation is the "eligible subsidy."
- Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

  When the mixed family's TTP is greater than the maximum rent, HACC must use the TTP as the mixed family TTP. Note: A warning message will appear when the family's TTP is entered into field 10p of PIC. This warning message is a workaround for purposes of implementing this provision.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by HACC 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 is contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

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

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

HACC 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.

HACC must provide sufficient information for families to make an informed choice. This information must include HACC'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 HACC 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 HACC determines that a financial hardship exists, HACC must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by HACC that a financial hardship exists, HACC 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 HACC to be appropriate

HACC 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

HACC 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[1]; and

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

[1] Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes:
(1) none recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

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

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

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

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for HACC 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 HACC'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 HACCs 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 sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

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

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

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

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

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

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

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities 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 housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

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

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, 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 responsible entity 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.

(c) *Disallowance of increase in annual income—*

(1) Initial twelve-month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities 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 who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity 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 who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48-month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

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

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to HACC 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 HACC, the welfare agency will inform HACC 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 HACC of any subsequent changes in the term or amount of such specified welfare benefit reduction. HACC 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 HACC's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to HACC by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) HACC 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 HACC decision.*

(1) Public housing. If a public housing tenant claims that HACC has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if HACC denies the family's request to modify such amount, HACC shall give the tenant written notice of such denial, with a brief explanation of the basis for HACC determination of the amount of imputed welfare income. HACC notice shall also state that if the tenant does not agree with HACC determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review HACC 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 HACC 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 HACC 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 HACC denies the family's request to modify such amount, HACC shall give the family written notice of such denial, with a brief explanation of the basis for HACC determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with HACC determination, the family may request an informal hearing on the determination under HACC hearing procedure.

(e) *PHA relation with welfare agency.*

(1) HACC must ask welfare agencies to inform HACC 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 HACC written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) HACC 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 HACC. However, HACC 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. HACC shall be entitled to rely on the welfare agency notice to HACC of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7

VERIFICATIONS
[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

HACC 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. HACC must not pass on the cost of verification to the family.

HACC will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACC 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 HACC.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that HACC or HUD determines is necessary to the administration of the program and must consent to HACC 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 HACC 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, HACC will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with HACC's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

Level Verification Technique Ranking

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

HACC Policy

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

1. Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
2. Upfront Income Verification (UIV) using non-HUD system
3. Written Third Party Verification
4. Written Third Party Verification Form
5. Oral Third Party Verification
6. Tenant/Applicant Declaration

Note: This verification hierarchy applies to income determinations for applicants and

participants. However, EIV is not available for verifying income of applicants.

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the Verification Guidance that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

HACC Policy

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

HACC will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, HACC would accept the most recent report.

Print-outs from web pages are considered original documents.

The HACC 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 HACC and must be signed.

File Documentation

HACC 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 HACC has followed all of the verification policies set forth in this ACOP and by HUD. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.C. ENTERPRISE INCOME VERIFICATION (EIV) (formerly known as Up-front Income Verification (UIV)

Enterprise income verification (EIV) refers to HACC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to HACC.

HACC must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV-generated information. No adverse action can be taken against a family until HACC has independently verified the EIV information and the family has been granted an opportunity to contest any adverse findings through HACC's informal review/hearing processes.

Definition of Substantial Difference

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available," HUD recommends using $200 per month as the threshold for a substantial difference. HACC will use the $200 per month as the threshold for a substantial difference.

See Chapter 6 for HACC's policies on the definition of substantial difference and the use of EIV to project annual income and for HACC's threshold for substantial difference.

When No Substantial Difference Exists

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

When a Substantial Difference Exists [24 CFR 5.236(b)]

When there is a substantial difference between the information provided by the EIV source and the family, HACC must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

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

Written Third Party Verification:

As outlined by HUD-HACC will accept original or authentic tenant-provided documents generated by a third party source dated within 60 calendar days of the date they are provided to HACC. Some examples of acceptable tenant-provided documents include are current: pay stubs, payroll summary report, employer notice /letter of hire/termination SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters/and or printouts and unemployment monetary benefit notices. HACC may at its discretion reject any tenant-provided documents and follow up directly with the source to obtain verification of information needed (Notice PIH 2010-19, p.3).

Written Third Party Verification Form

HACC may mail, fax, or email written third party verification forms. HACC may at its discretion accept these forms from tenants because many documents in the possession of tenants are derived from third party sources. Forms acceptable from applicants/tenants must be documents generated from a third party source's computerized system or database (Notice PIH 2010-19, p.4-5).

Oral Third Party Verification

HACC will make an attempt to obtain third party verification if responses to the requests for written third party verification forms are not received within 10 business days (Notice PIH 2010-19, p.5).

Tenant/Applicant Declaration

When information cannot be verified by via all other verification methods, HACC will require applicants or tenants to submit affidavits or notarized statements of reported income and/or

expenses. HACC will document applicant/tenant files with why third party verification was not available for (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income (Notice PIH 2010-19).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, HACC will use the information from documents on a provisional basis. If HACC later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, HACC will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of HACC's interim reexamination policy.

When Third-Party Verification is Not Required

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.

Certain Assets and Expenses

HACC 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].

HACC may determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

HACC Policy

HACC will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $500 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

HACC will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, HACC will rely upon review of documents when HACC determines that a third party's privacy rules prohibit the source from disclosing information.

HACC will determine if third-party verification is available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary and verifiable information.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If HACC has determined that third-party verification is not available or not required, HACC will use documents provided by the family as verification.

HACC may also review documents when necessary to help clarify information provided by third parties. In such cases HACC will document in the file how HACC arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

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 HACC.

HACC 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 HACC and must be signed by the family member whose information or status is being verified.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HACC Policy

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

Verification of Legal Identity for Adults (these documents must be submitted)	Verification of Legal Identity for Children (these documents must be submitted)
Certificate of birth, naturalization papers Current PHOTO ID: acceptable are valid driver's license, Department of Motor Vehicle identification card, or U.S. Passport U.S. military discharge (DD 214)	Certificate of birth Adoption papers

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

Verification of Legal Identity for Adults (other acceptable documents)	Verification of Legal Identity for Children (other acceptable documents)
Employer identification card Church issued baptismal certificate	Custody agreement Health and Human Services ID School records

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV, p. 5-12]

Every family member must provide documentation of a valid Social Security Number (SSN) [24 CFR 5.216 (e)]. Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN. When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the processing entity at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s): [24 CFR 5.216 (i)]
Addition of new household member who is under the age of 6 and has no assigned SSN. (A) When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation referred to in paragraph **(g)(1) of this**

section to verify the SSN for each new child within 90 calendar days of the child being added to the household. [24 CFR 5.216 (ii)]

HACC POLICY

HACC Policy HACC will accept the following documents as evidence of the SSN:
An original SSN card issued by SSA;
An original SSA-issued document, which contains the name and SSN of the individual
(Notice PIH 2010-3)

Social security numbers must be verified only once during continuously-assisted occupancy.

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

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

- If an official record of birth or evidence of social security retirement benefits cannot be provided, HACC 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.

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

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

A marriage certificate generally is required to verify that a couple is married.

Separation or Divorce

Certification by the head of household is normally sufficient verification. If HACC has reasonable doubts about a separation or divorce, HACC 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.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

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

7-II.E. VERIFICATION OF STUDENT STATUS

HACC 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

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

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

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

Family Members Receiving SSA Disability Benefits

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

HACC Policy

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

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.

HACC Policy

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

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

Overview

Housing assistance is 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 HACC verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

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

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

HACC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless HACC 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 7-2 at the end of this chapter summarizes documents family members must provide.

HACC 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, HACC must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

HACC must verify any preferences claimed by an applicant. (See Chapter 4, Section 4-III.B.)

HACC Policy

For federally-declared disaster families, HACC will verify through HUD that the applicant has participated in a similar federally-funded program.

For veterans and their spouses, HACC must receive a copy of the DD-214 letter indicating that they are veterans of the United States. If and only when the veteran is deceased will the widowed veteran spouse be required to show proof of marriage and death (of veteran) by submitting a marriage certificate and death certificate.

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

7-III.A. EARNED INCOME

Tips

HACC 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

HACC 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.

HACC 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 HACC 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, HACC 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 HACC 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

HACC Policy

To verify the SS/SSI benefits of applicants, HACC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), HACC will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to provide it to HACC.

To verify the SS/SSI benefits of residents, HACC will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, HACC will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) HACC will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the resident has received the benefit verification letter they will be required to provide it to HACC.

7-III.D. ALIMONY OR CHILD SUPPORT

HACC Procedure

The way HACC will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

If payments are made through a state or local entity, HACC will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HACC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HACC Policy

HACC will verify the value of assets disposed of only if:

HACC 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 participant reported a $10,000 certificate of deposit at the last annual reexamination and HACC verified this amount. Now the person reports that she has given this $10,000 to her son. HACC has a reasonable estimate of the value of the asset; therefore, re-verification 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, HACC will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

HACC 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, HACC 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

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, HACC 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, HACC 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, HACC 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.

HACC must obtain verification for income exclusions only if, without verification, HACC 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, HACC will confirm that HACC records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

HACC Policy

HACC 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, HACC will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that HACC 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, Section 6-II.B. for a full discussion of this deduction. HACC will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6, Section 6-II.C. for a discussion of the deduction. HACC will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6, Section 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

HACC will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case HACC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. HACC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, HACC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or a person with disabilities. HACC will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Section 7-IV.A. of this plan.

Qualified Expenses

To be eligible for the medical expense deduction, the costs must qualify as medical expenses. See Chapter 6, Section 6-II.D. for HACC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expense deduction, the costs must not be reimbursed by another source.

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

When anticipated costs are related to on-going payment of medical bills incurred in past years, HACC 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 Chapter 6, Section 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

HACC will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

HACC Procedure

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party are not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, HACC must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in Section 7-II.F.).
- The expense permits a family member, or members, to work (as described in Chapter 6, Section 6-II.E.).
- The expense is not reimbursed from another source (as described in Chapter 6, Section 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. HACC will verify that the expense is incurred for a person with disabilities (See Section 7-II.F.).

Family Member(s) Permitted to Work

HACC must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HACC Procedure

HACC will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6, Section 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HACC Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6, Section 6-II.F. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, HACC 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. HACC will verify that the child being cared for (including foster children) is under the age of 13 (See Section 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HACC Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

HACC 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.

HACC Policy

Information to be Gathered

HACC 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 HACC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases HACC will request verification from the agency of the member's job seeking efforts to date and require the family to submit to HACC any reports provided to the other agency.

In the event third-party verification is not available, HACC will provide the family with a form on which the family member must record job search efforts. HACC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

HACC will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

HACC will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HACC Policy

HACC will verify that the type of child care selected by the family is allowable, as described in Chapter 6, Section 6-II.F.

HACC 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).

HACC 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.

HACC Policy

The actual costs the family incurs will be compared with HACC'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, HACC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2010-19)

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	**Highest** (Mandatory)
5	**Upfront Income Verification (UIV)** using non-HUD system	**Highest** (Optional)
4	**Written third Party Verification**	**High** (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute)
3	**Written Third Party Verification Form**	**Medium-Low** (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	**Oral Third Party Verification**	**Low** (Mandatory if written third party verification is not available)
1	**Tenant Declaration**	**Low** (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Verification Technique Definitions

Third Party Verification Techniques

Upfront Income Verification (UIV) (Level 6/5): The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

Written Third Party Verification (Level 4): An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department's position those tenant-provided documents are written third party verification since these

documents originated from a third party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.
Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, and employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.
The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.
Note: Documents older than 60 days (from the PHA interview/determination or request date) is acceptable for confirming effective dates of income.

Written Third Party Verification Form (Level 3): Also, known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.
It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).
5
The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.
The Department requires PHAs to rely on documents that originate from a third party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.
This verification method is commonly used in the event that the independent source does not

respond to the PHA's faxed, mailed, or e- mailed request for information in a reasonable time frame, i.e., ten (10) business days.

Non-Third Party Verification Technique

Tenant Declaration (Level 1): The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, "The PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available**."

EXHIBIT 7-2: 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 HACC.
- 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 I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) 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 I-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*

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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 HACC and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require HACC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, HACC may require additional inspections in accordance with HACC policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and HACC's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes HACC'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 HACC 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 HACC's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

HACC Policy

After unit acceptance but prior to occupancy, a HACC representative will provide a lease orientation to the family. The head of household is required to attend.

Orientation Agenda

HACC Procedure

When families attend the lease orientation, they will be provided with:

A copy of the lease

A copy of HACC's grievance procedure

A copy of the house rules

A copy of the pet policy

A copy of HACC's schedule of maintenance charges

A copy of the pamphlet *Protect Your Family from Lead in Your Home*

A copy of *Things You Should Know* (HUD-1140-OIG)

A copy of Attachment to Lease: Tenant Rules & Obligations

Topics to be discussed will include:

Applicable deposits and other charges

Review and explanation of lease provisions

Unit maintenance and work orders

HACC's reporting requirements

Explanation of occupancy forms

Community service requirements

Family choice of rent

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and HACC, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

HACC Policy-The lease must be executed by the tenant and HACC at a minimum once per year.

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 HACC unit to another.

The lease must state the composition of the household as approved by HACC (family members and any HACC-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.

- The head of household and spouse or co-head will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. All other household members 18 years of age and over will also be required to sign the lease, but not prior to admission. The head of household will be provided a copy of the executed lease and HACC 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 HACC 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 HACC [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

HACC may modify its lease from time to time. However, HACC must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. HACC 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)] *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 HACC will post copies of the notice in the central office, in each project office, and in at least 3 conspicuous places in each structure that contains dwelling units.

Other Modifications

> A new lease or lease addendum will be issued to reflect all changes in family composition.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I. E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of HACC, 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 HACC. HACC 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.

Residents must pay a security deposit at the time of admission of admission to the unit in the amount of $250.00.

For mixed finance developments (Riverdale Senior Housing and Summit Villas) or where security deposits are subject to local regulation (Evanston) security deposits may not be required.

HACC will hold the security deposit for the period the family occupies the unit. HACC will not use the security deposit for rent or other charges while the resident is living in the unit.

HACC 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 within 45 days (21 days for Evanston Properties) of tenant's surrender of possession.

HACC will provide the resident with a written list of any charges against the security deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged, HACC will provide a meeting to discuss the charges.

If the resident transfers to another unit, HACC will transfer the security deposit according to the policy outlined in Chapter 12-III.D of this ACOP.

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 HACC 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 HACC must give written notice stating any change in the amount of tenant rent and when the change is effective.

- The tenant rent is due and payable at HACC-designated location on the first 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, HACC 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.
- The Authority reserves the right to apply tenant payments in such manner as it deems most financially advantageous to the Authority. The Authority shall apply all tenants' payments by giving first priority to payment and satisfaction of any and all outstanding and accrued fees. If a tenant owes the Authority money for payment of any outstanding fees other than rent, and submits anything less than payment in the full amount to the Authority, then the tenant's payment will first be applied to any outstanding fees (other than rent) and the remainder shall be applied to payment of the rent. If a check is written with the notation "For Rent Only" or with any other notation intended to limit the Authority's privilege to apply funds in a manner deemed most advantageous to the Authority, and the check is submitted for an amount less than full payment of all fees and rent combined, the note will be disregarded and the payment will first be applied to any outstanding fees and the remainder will be applied to the rent.

Late Fees and Nonpayment

At the option of HACC, 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 HACC 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 HACC grievance procedures. HACC 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)].

HACC Policy

If the family fails to pay their rent by the fifth day of the month, 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 in the main office by the close of business on the fifth day of the month, a late fee of $15.00 may 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. The HACC only accepts a money order or cashier's check for returned payments. If the family requests a grievance hearing within the required timeframe, HACC 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.

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 calendar days after billing.

Excess Utility Charges

If HACC charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

Tenants are required to have the following utilities turned on in their unit, at all times during their tenancy as defined in their lease. Electricity for all units and Gas for family units in which the tenant is responsible for their own heat. Utilities must be in the name of an adult member of the household who is a party to the lease. Failure to maintain utilities will result in termination of tenancy.

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after HACC 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 HACC grievance procedures. HACC 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)].

Maintenance and Damage Charges

If HACC 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 HACC 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 HACC grievance procedures. HACC 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)].

1. When applicable, families will be charged for maintenance and/or damages according to HACC'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).
2. 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 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HACC may not take action for nonpayment of the charges until the conclusion of the grievance process.
3. Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

Tenant Expectations

The Authority provides quality, safe, clean and affordable housing to individuals of modest means. Residents, their family members and their guests are required to refrain from any criminal conduct, behavior that threatens, harasses or endangers other residents or HACC staff, or otherwise diminishes the peace and tranquility of the Authority's property or surrounding community. Residents shall refrain from scattering garbage, trash or debris of any kind except in the trash receptacles provided by the Authority. Public intoxication of any resident, family member, visitor or guest is strictly prohibited. Residents shall not publicly display or use any alcoholic or intoxicating beverages or substances outside of their own residence. Tenants who fail to adhere to these regulations will be subject to lease violation up to and including eviction for non-compliance.

One major concern is unattended cooking, a leading cause of public housing fires. Tenants shall not leave food cooking unattended. Tenants shall control cooking odors so as to not disturb other residents.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require HACC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, HACC may require additional inspections, in accordance with HACC Policy. This part contains HACC'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 HACC 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 HACC and the resident, must be provided to the tenant and be kept in the resident file.

- The head of household must attend the initial inspection and sign the inspection form.

Move-Out Inspections [24 CFR 966.4(i)]

HACC 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 HACC. HACC must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear. If a tenant fails to appear for a move-out inspection the tenant waives the right to the challenge or dispute the inspection results

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. HACC will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 calendar days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), HACC is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

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. Supervisory quality control inspections will be conducted in accordance with HACC's maintenance plan.

Special Inspections

HACC Policy

HACC staff may conduct special inspections as frequently as it deems necessary 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

Building exteriors, grounds, common areas and systems will be inspected according to HACC's maintenance plan

Inspections required by municipalities as may be required local government agencies

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

HACC 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 HACC entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

- HACC 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 48 hours 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 HACC to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

HACC 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, HACC must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

Inspections will be conducted between 8:00 AM and 7:00 PM, including weekends if scheduled by HACC. If a family needs to reschedule an inspection, they must notify HACC at least 24 hours prior to the scheduled inspection. HACC will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. HACC 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.

- 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. However, residents with pets are required to be present during any inspections or maintenance repairs or that the animal must be caged.
- 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

HACC 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 HACC of the damage, and HACC must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, HACC must charge the family for the reasonable cost of repairs. HACC may also take lease enforcement action against the family.

If HACC cannot make repairs quickly, HACC must offer the family standard alternative accommodations. If HACC can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, HACC will make repairs or otherwise abate the situation within 24 hours. If the situation cannot be abated, HACC may transfer the family to alternate housing as an emergency transfer, further discussed in Chapter 12.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit, including but not limited to fire damage.
- 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 that HACC provides and are 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

If investigation reveals that unsafe conditions were caused by family negligence, the HACC may move to terminate the lease, as further discussed in Chapter 13. Resident families that cause damages will be responsible for the reasonable costs and repairs of such damages.

Non-emergency Repairs

HACC will correct non-life threatening health and safety defects within 15 business days of the inspection date. If HACC is unable to make repairs within that period due to circumstances beyond HACC's control (e.g. required parts or services are not available, weather conditions, etc.) HACC will notify the family of an estimated date of completion.

The family must allow HACC access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in Chapter 8, Section 8-I.F., 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

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, HACC will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 calendar days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

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

REEXAMINATIONS
[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

HACC is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. HACC 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 HACC must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires HACC to offer all families the choice of paying income-based rent or flat rent at least annually. HACC's policies for offering families a choice of rents is located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations. 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 HACC'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 HACC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and HACC 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, HACC 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]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, HACC must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, HACC 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, HACC 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.

HACC is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of HACC. 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 HACC's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

HACC 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)].

HACC Policy

HACC will conduct annual reexaminations so that the effective date will correspond with the resident's anniversary date. HACC 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 initial program admission.

If the family transfers to a new unit, HACC will reexamine at least annually.

HACC 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

HACC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of HACC.

HACC Policy

Notification of annual reexaminations will be sent by first-class mail. It will inform the family of the information and documentation that must be returned by mail or in person.

HACC will schedule an interview for annual reexamination for each family. HACC will include date, time, and location of the interview in the notification notice.

The head of household is required to attend the in-person interview pursuant to Section 9 II.C.

If the family is unable to attend the scheduled interview and requires assistance with the documents, they must contact their local manager's office to reschedule. If the family wishes to bring an advocate, interpreter, or other assistant to help facilitate the process, they may do so.

Any required documents must be returned by mail or in person within 10 business days. If a family fails to submit their paperwork within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

9-I.C. 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)].

HACC Policy

Families will be asked to bring or mail in all required information (as described in the reexamination notice). The required information will include a HACC-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.

If the family is unable to provide any required documents or information within 10 business days, the family may request an additional 10 business day 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 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. HACC 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 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Chapter 13, Section 13-IV.B.

HACC 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, HACC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for HACC's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, HACC must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

HACC 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 HACC 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 HACC, 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 HACC 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 HACC.

If the family causes a delay in processing the annual reexamination, d*ecreases* 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 HACC by the date specified, and this delay prevents HACC from completing the reexamination as scheduled.

9-I.E. STREAMLINED ANNUAL REEXAMINATION FOR FIXED SOURCES OF INCOME

HACC adopted a streamlined income determination for any family member with a fixed source of income in accordance with 24 CFR §§960.257, 982.516. The family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, HACC must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; HACC must continue to conduct third-party verification of deductions.

HACC Policy

This policy only applies to current residents, not to applicants.

Fixed source of income includes income from:

 Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);

 Federal, state, local, and private pension plans; and

 Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

In the initial year of employing a streamlined income determination, HACC must determine whether a source of income is fixed:

HACC may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. HACC may also make such a determination by requiring a family to identify as to which, source(s) of income are fixed. HACC must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, *third-party verification of all income amounts for all family members must be performed at least every three years*. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, HACC would need to obtain third-party verification of *all* income amounts. This also means that if a family member with a fixed-income source is added to the family during year two, for example, then HACC must obtain third-party verification of all income amounts for that family member at the next reexamination if HACC wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that HACC offer all families the choice of paying income-based rent or flat rent at least annually. HACC's policies for offering families a choice of rents is located in Chapter 6.

For families who choose flat rents, HACC 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)]. HACC is only required to provide the amount of income-based rent the family might pay in those years that HACC 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, HACC must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains HACC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

HACC Policy

For families paying flat rents, HACC will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

HACC Policy

In conducting full reexaminations for families paying flat rents, HACC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B. through 9-I.D.

9-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 HACC 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 HACC does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

HACC 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)].

HACC 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, HACC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B.

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)].

HACC Policy

Generally, the family will not be required to attend an interview for an annual update. However, if HACC 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 HACC. The family will have 10 business days to submit the required information to HACC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension for an additional 10 business days. HACC will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, HACC 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 HACC.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. HACC 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 12.

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 Chapter 13, Section 13-IV.B.

HACC 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, HACC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for HACC's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and HACC policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances HACC must process interim reexaminations to reflect those changes. HUD regulations also permit HACC 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. HACC must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HACC policies describing what changes families are required to report, what changes families may choose to report, and how HACC will process both HACC- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

HACC 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, HACC 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.

HACC 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).

HACC 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 HACC approval. However, the family is required to promptly notify HACC of the addition [24 CFR 966.4(a)(1)(v)].

HACC Policy

The family must inform HACC 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 HACC 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)].

HACC may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which HACC consent will be given or denied. Under such policies, the factors considered by HACC 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.
- HACC's obligation to make reasonable accommodation for handicapped persons.

HACC Policy

Families must request HACC 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 HACC prior to the individual moving into the unit.

HACC will not approve the addition of a new family or household member unless the individual meets HACC's eligibility criteria (see Chapter 3).

If HACC determines that an individual does not meet HACC's eligibility criteria as defined in Chapter 3, HACC 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.

HACC will make its determination within 30 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

HACC Policy

If a family member ceases to reside in the unit, the family must inform HACC 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 HACC within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because HACC 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, HACC may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HACC 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.

HACC-initiated Interim Reexaminations

HACC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by HACC. They are not scheduled because of changes reported by the family.

HACC Policy

HACC will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), HACC 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, HACC 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); HACC 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, HACC will conduct an interim reexamination.

HACC 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

HACC 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 HACC the freedom to determine the circumstances under which families will be required to report changes affecting income.

HACC 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.

HACC 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, HACC 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)]. HACC 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.

HACC 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, HACC 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, HACC will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HACC Policy

The family may notify HACC of changes either orally or in writing. If the family provides oral notice, HACC may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if HACC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, HACC 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 HACC. This time frame may be extended for good cause with HACC approval. HACC will accept required documentation by mail, by fax, or in person.

Effective Dates

HACC must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

HACC Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

In the case of a rent decrease, the adjustment will become effective, for families paying income-based rent and for families switching from flat rent to income-based rent because of financial hardship, on the first day of the month following the reported change in circumstances or change in Federal law or regulations, provided Tenant reported the change in a timely manner, as specified above (when change is based on new circumstances). 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

9-IV.A. OVERVIEW

For those families paying income-based rent, HACC 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.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in HACC's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

HACC Policy

Unless HACC 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.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires HACC 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 HACC re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of HACC ʹs schedule of Utility Allowances for families in HACC ʹs Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, HACC must notify the tenant that the tenant may ask for an explanation stating the specific grounds of HACC determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under HACC's grievance procedure [24 CFR 966.4(c)(4)].

HACC Policy

Notice of rent amount will be sent to family.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, HACC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, HACC may discover errors made by HACC. 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 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains HACC's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of HACC to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of HACC.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance (including emotional support) animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal (defined to include emotional support animal) may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as "service animals," "assistive animals," "support animals," or "therapy animals" – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets. Assistance Animals (and emotional support animals) are specifically excluded from the weight restrictions and the pet deposit and other fees requirements contained in the Pet Policy (as described in Parts II to IV of this chapter, and 24 CFR 5.303; 960.705. HACC will impose reasonable policies for all animals to preserve the health and safety of residents and prevent damage to property.

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179]. A person with a disability must request the reasonable accommodation before the animal is brought into the unit. HACC may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

HACC complies with the requirements of Section 504 of the Fair Housing Act, and the Rehabilitation Act, as well as other civil rights laws applicable to providing persons with disabilities with a reasonable accommodation. HACC will permit a person with a disability to use and live with an assistance animal, unless:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

HACC Policy

For an animal to be excluded from the pet deposit and weight restrictions requirements contained in the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and HACC approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

HACC may require registration of the pet with HACC [24 CFR 960.707(b)(5)].

HACC Policy

Pets are not permitted in or upon HACC property as a matter of right. Pets may be admitted to the property upon the prior written approval of the property manager. The Authority reserves the right to withdraw its prior approval.

Pets must be registered with HACC before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Failure to provide the required information within 30 days of the annual reexamination date may result in the removal of the pet or termination of the lease.

Refusal to Register Pets

HACC Policy

HACC will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C.

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

HACC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If HACC refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of HACC's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with HACC's grievance procedures.

The following animals are not permitted under any circumstances:

Dogs whose adult weight exceeds 25 pounds

Cats whose adult weight exceeds 15 pounds

Breeds of canines (full or partial) used for attack or defensive purposes including but not limited to, Rottweiler, Pit Bull, Chow, Boxer and Doberman Pinscher breeds

Overly aggressive cats, with known or suspected propensity, tendency, or disposition to unprovoked attack

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

The only valid exceptions to the weight and breed restriction are service/ Assistive animals for persons with disabilities that have received prior approval from HACC management staff.

Pet Agreement

HACC Policy

Residents who have been approved to have a pet must enter into a pet agreement with HACC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of HACC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with HACC's pet policy and applicable house rules may result in the withdrawal of HACC approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

HACC may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that HACC classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

HACC may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize HACC to define the term [24 CFR 5.306(2)].

HACC Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

Pet Restrictions

HACC Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

HACC Policy

Residents may own a maximum of one (1) pet.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to ten (10) gallons. The tank must be in good working order and be maintained in a clean fashion and not cause damage to the unit due to flooding.

A small group of fish kept in such a tank or aquarium will be counted as one (1) pet.

Hamsters, Guinea Pigs and Gerbil Ownership: A maximum of one (1) may be kept.

Birds: A maximum of one (1) bird may be kept- the bird must be housed in a cage or carrier at all times and the resident's unit must be in good condition and conform to the housekeeping regulations that are described in the tenant lease.

Certain types of birds are not permitted. Pigeons, gulls and predator bird species (including but not limited to hawks, eagles, falcons, owls, vultures, harriers, kestrels, merlins, ospreys and condors) are not allowed under any circumstances.

Other Requirements

HACC Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

Pets cannot be tethered or chained inside or outside the unit at any time. In cases where staff or contractors must enter the unit to complete work orders or for an emergency, pets must be kept under control so as not to cause harm to themselves or to staff or contractors that enter the unit.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with HACC's policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

The Housing Authority's primary mission and purpose is to provide clean, safe and affordable housing for low-income clients and their pre-approved human co-habitants. Residents and their family members and visitors have no privilege or right to bring pets into their unit or onto the Authority's property. Residents shall obtain advance written approval from the property manager to bring any pet into the property for any period of time. The Authority maintains the absolute right to deny a request to bring pets into the property, or otherwise rescind its prior approval, for any demonstrable cause. Such cause may include, but not be limited to

1.) reasons of health and safety of residents, guests, HACC employees and invitees;

2.) damage to HACC property;

3.) failure to properly care for a pet;

4.) failure to immediately and routinely clean and disinfect any area soiled by a pet's feces or urine;

5.) any pet's loud barking or other disturbances of the peace or;

6.) to halt or otherwise prevent the spread of disease or pestilence including, but not limited to, fleas, bed bugs, lice, ticks or mites.

Any approved dog or cat taken outside of the resident's unit (anywhere within the building or on the grounds) must be kept firmly on a leash and under the direct control of the resident at all times. Should the property manager have reasonable suspicion that a pet is transmitting any form of pestilence or disease, including but not limited to bed bugs, mites, ticks or fleas, said pet shall immediately be removed from the residence upon written notification of the property manager.

Pet Area Restrictions

HACC Policy

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.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building. The exception to this are Service/Assistive animals that are not considered pets and are considered a necessity to allow a person with disabilities to retain their independence and therefore are permitted the tenant in all areas of the building and grounds.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

HACC may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

HACC may direct initial tenant moves as may be necessary to establish pet and no-pet areas. HACC may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. HACC may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

HACC may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

HACC Policy

With the exception of common areas as described in the previous policy, HACC has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, HACC has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

HACC Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by HACC.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

HACC Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

HACC Policy

HACC is a type of living environment where there is a limited amount of personal space for residents to peacefully enjoy and because pet ownership is a privilege that must be taken seriously, pet owners must agree to control their pet's behavior, the noise created by their pets, and otherwise ensure that their pet does not create a nuisance to any other

residents, or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to jumping upon any other individual if that recipient of the pet's attention finds the contact offensive, creating loud or continuous barking, howling, whining, biting, scratching, chirping, or any other such activity deemed by the property manager to constitute a nuisance.

Pet Care

HACC Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HACC property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

HACC Policy

The pet owner will be required to designate one responsible party for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify HACC and sign a statement

that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

HACC Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by HACC.

Pet Rule Violations

HACC Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

HACC Policy

If the pet owner and HACC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by HACC, HACC may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for HACC's determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

HACC Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if HACC after reasonable efforts cannot contact the responsible party, HACC may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

HACC Policy

HACC may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

HACC Policy

HACC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for HACC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes HACC's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

HACC may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by HACC on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as HACC may require. HACC may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

HACC Policy

In addition to other required deposits, pet owners of dogs and cats are required to pay a deposit of $250.00, which must be paid in full before the pet is brought onto the premises. For any other permitted pets, the HACC may charge a deposit.

Refund of Deposit [24 CFR 5.318(d)(1)]

HACC may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. HACC must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

HACC Policy

HACC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 60 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

HACC will provide the resident with a written list of any charges against the pet deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, HACC will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

HACC Policy

All reasonable expenses incurred by HACC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Chapter 8, Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address HACC's ability to impose charges for house pet rule violations. However, charges for violation of HACC's pet rules may be treated like charges for other violations of the lease and HACC's tenancy rules.

HACC Policy

The pet owner will be charged separately the sum equal to the hourly rate of the custodian conducting the pet waste removal, per each occurrence.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HACC may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes HACC's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

HACC may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

If HACC requires a resident to pay a pet deposit HACC must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. HACC must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

An inspection must be completed by the property manager once pet has been removed from the unit.

Payment of Deposit

HACC Policy

Pet owners are required to pay a pet deposit of $250.00, in addition to any other required deposits, which must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

HACC Policy

HACC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 45 days (21days for Evanston Properties) of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

HACC will provide the resident with a written list of any charges against the pet deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, HACC will provide a meeting to discuss the charges.

CHAPTER 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring HACC to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and HACC 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: HACC Implementation of Community Service. This part provides HACC policy regarding HACC implementation and program design.

The Housing Authority of Cook County is adopting the following waiver as described in NOTICE PIH 2020-13 (HA), REV-1:

"PH-5: Community Service and Self-Sufficiency Requirement (CSSR) Statutory Authority: Section 12(c) of the USHA of 1937 Regulatory Authority: 24 CFR § 960.603(a) and 960.603(b) Description: The statute and regulations require that each adult resident of public housing, except for any family member that is exempt, must contribute 8 hours per month of community service or participate in an economic self-sufficiency program or a combination of both. A family's noncompliance with the service requirement is grounds for non-renewal of the lease at the end of the lease term. HUD is waiving this requirement and is alternatively suspending the community service and self-sufficiency requirement.

If a PHA adopts this waiver, tenants will not be subject to this requirement at the family's next annual reexamination. Upon the family's next annual reexamination, PHAs should report on Form HUD-50058 each individual's CSSR status as either exempt for those that are exempt, or pending for those that are otherwise eligible but for which the suspension prevents a housing authority from determining compliance. After a PHA completes an annual reexamination for any family, the CSSR becomes effective again for family members for the subsequent annual reexamination cycle."

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). HACC and residents must comply with the community service requirement, effective with HACC fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), HACC Plan must contain a statement of how HACC will comply with the community service requirement, including any cooperative agreement that HACC 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, HACC must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of HACC, 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).

HACC Policy

An individual may not skip a month and then double up the following month, unless special circumstances warrant it. HACC 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 HACC in writing within 5 business days of the circumstances becoming known. HACC will review the request and notify the individual, in writing, of its determination within 10 business days. HACC may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

  HACC Policy

  HACC will consider 20 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- Meets the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which HACC is located, including a state-administered welfare-to-work program; or
- Is in a family receiving assistance 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 HACC 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 [PH Occ GB, p. 174]

Community service is volunteer work, which includes, but is not limited to:

- Work at a local institution including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization that serves HACC residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations
- Work at HACC to help improve physical conditions
- Work at HACC to help with children's programs
- Work at HACC to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board
- Caring for the children of other residents so they may volunteer

NOTE: Political activity is excluded for purposes of eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeships (formal or informal), or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* mean:

- 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)]

HACC 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 HACC verification of exempt status. HACC 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.

HACC Policy

HACC will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 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, HACC 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 non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

HACC must review and verify family compliance with service requirements annually at least 30 days before the end of the 12-month lease term. The policy for documentation and verification of compliance with service requirements may be found in Section 11-I.D., Documentation and Verification.

HACC Policy

HACC will not change the effective date of the scheduled annual reexamination to coincide with the lease term.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

HACC Policy

At least 60 days prior to lease renewal, HACC 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 HACC 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, HACC will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

HACC must review resident family compliance with service requirements annually at least 30 days before the end of the 12-month lease term [24 CFR 960.605(c)(3)]. As part of this review, HACC must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

HACC Policy

Approximately 60 days prior to the end of the lease term, HACC 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 HACC required documentation form(s).

If the family fails to submit the required documentation within the required timeframe (plus any HACC-approved extension), the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the 12-month lease term, it is the family's responsibility to report this change to HACC within 10 business days.

Within 10 business days of a family reporting such a change, or HACC determining such a change is necessary, HACC 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.

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the 12-month lease term, it is the family's responsibility to report this change to HACC within 10 business days. Any claim of exemption will be verified by HACC in accordance with the policy in Section11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or HACC determining such a change is necessary, HACC will provide the family written notice that the family member is no longer subject to the community service requirement, if HACC is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

HACC must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

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 11-3. HACC will provide a completed copy to the family and will keep a copy in the tenant file.

HACC will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

HACC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with HACC's determination, s/he can dispute the decision through HACC's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than HACC, a family member who is required to fulfill a service requirement must provide certification to HACC, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

If anyone in the family is subject to the community service requirement, HACC 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 HACC, upon request by HACC.

If HACC has reasonable cause to believe that the certification provided by the family is false or fraudulent, HACC has the right to require third-party verification.

11-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 12-month lease term, but not for termination of tenancy during the course of the 12-month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, HACC may not renew the lease upon expiration of the 12-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with HACC. 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 12-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 of Initial Noncompliance [24 CFR 960.607(b)]

If HACC 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), HACC must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that HACC will not renew the lease at the end of the 12-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with HACC to cure the noncompliance, or the family provides written assurance satisfactory to HACC 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 HACC's determination, in accordance with HACC's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for HACC's nonrenewal of the lease because of HACC's determination.

HACC 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 HACC 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, HACC will terminate tenancy in accordance with the policies in Chapter 13, Section 13-IV.D.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12-month cure period, the family member is still not compliant, HACC must terminate tenancy of the entire family, according to HACC's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

HACC 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 Chapter 13, 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 HACC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10-business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each HACC must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in HACC'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.

HACC Implementation of Community Service

HACC may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by HACC employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

HACC Policy

HACC will notify its insurance company if residents will be performing community service at HACC. In addition, HACC 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, HACC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

HACC Program Design

HACC 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)].

HACC Procedure

HACC will attempt to provide the broadest choice possible to residents as they choose community service activities.

HACC'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. HACC will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

HACC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, HACC 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 HACC's Plan.

HACC will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (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 – volunteer work, which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations
- Work at the housing authority to help with litter control
- Work at the housing authority to help with children's programs
- Work at the housing authority to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- GED classes
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships
- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence
- Student status at any school, college or vocation school

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][l] 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 individual
- Is working at least 20 hours per week
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such 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 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 11-3) and provide documentation of the exemption.
    - Upon written notice from HACC, non-exempt 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, as a condition of continued occupancy.
4. Change in exempt status:
    - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to HACC and provide documentation of exempt status.
    - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to HACC. Upon receipt of this information HACC 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, HACC 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. HACC 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, HACC will verify the exemption status in accordance with its verification policies. HACC will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use HACC's grievance procedure if they disagree with HACC's determination.
4. Noncompliance of family member:
   - At least thirty (30) days prior to the end of the 12-month lease term, HACC will begin reviewing the exempt or non-exempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, HACC finds the family member to be noncompliant, HACC will not renew the lease unless:
     – The head of household and any other noncompliant resident enter into a written agreement with HACC, to make up the deficient hours over the next twelve (12) month period; or
     – The family provides written documentation satisfactory to HACC 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 HACC that the noncompliant family member no longer resides in the unit;
   - The family may use HACC'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 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from HACC's community service requirement for the following reason:

❒ 62 years of age or older. *(Documentation of age in file)*

❒ 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

❒ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*

❒ Is working at least 20 hours per week. *(Employment verification in file)*

❒ Is participating in a welfare-to-work program. (*Documentation in file)*.

❒ Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program, including a State-administered welfare-to-work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program. *(Documentation in file)*

_____ _____

Signature of Family Member Date

_____ _____

Signature of PHA Official Date

CHAPTER 12

TRANSFER POLICY

INTRODUCTION

This chapter explains HACC's transfer policy, based on HUD regulations, HUD guidance, and HACC's policy decisions.

This chapter describes HUD regulations and HACC's 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: HACC Required Transfers. This part describes types of transfers that may be required by HACC, 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.

HACC 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.

HACC must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by HACC.

In the case of an emergency, as described below, HACC will put its resources to transfer a tenant, if a transfer is warranted. 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, HACC will 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.

12-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, which render the unit uninhabitable, HACC will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

HACC considers the following as typical emergency circumstances 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 can include, but are not limited to: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks, and/or a fire that renders the unit's systems inoperable.

12-I.C. EMERGENCY TRANSFER PROCEDURES

HACC Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, HACC 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, HACC will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant. Tenants who refuse an emergency transfer may be terminated by the HACC.

12-I.D. COSTS OF TRANSFER

HACC will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

HACC may, based on available funds establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, HACC will collect information from companies in the community that provide these services.

HACC will reimburse the family for eligible out-of-pocket moving expenses up to HACC's established moving allowance. HACC will not advance funds to the resident.

PART II: HACC REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to HACC to develop reasonable transfer policies.

HACC may require that a resident transfer to another unit under some circumstances. For example, HACC may require a resident to transfer to make an accessible unit available to a disabled family. HACC may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, HACC may transfer residents in order to demolish or renovate the unit.

A transfer that is required by HACC is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF HACC REQUIRED TRANSFERS

The types of transfers that may be required by HACC, 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 HACC 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, HACC may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

HACC Process

When a non-accessible unit becomes available, HACC will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. HACC 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

HACC 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 HACC policy [24 CFR 960.257(a)(4)]. On some occasions, HACC 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)].

HACC Procedure

HACC 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-h*oused:* the family no longer qualifies for the bedroom size in which they are living based on HACC's occupancy standards as described in Section 5-I.B.

HACC 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 HACC's occupancy standards, when HACC determines there is a need for the transfer.

HACC 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 HACC that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards in accordance with the policies in Section 5-I.C. 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 HACC to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

HACC Procedure

HACC 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. HACC'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.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

An HACC-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, HACC may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

HACC will bear the reasonable costs of transfers that HACC requires.

The reasonable costs of transfers include the cost of packing, moving, and unloading, as well as the cost of reconnecting existing resident paid services such as telephone or cable television.

HACC will establish a moving allowance based on the typical costs in the community of packing, moving, unloading and reconnecting resident paid services. To establish typical costs, HACC will collect information from companies in the community that provide these services. HACC will reimburse the family for eligible out-of-pocket moving expenses up to HACC's established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides HACC with discretion to consider transfer requests from tenants. The only requests that HACC is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of HACC. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by HACC.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfers that HACC 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 HACC's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by HACC.

HACC will consider the following as high priority transfer requests:

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at HACC's discretion, include an assessment by law enforcement indicating a threat of criminal attack, potential retaliation for testimony, or where the tenant is a victim of a hate crime or domestic violence.

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.

HACC 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 HACC's definition of overcrowded, as long as the family meets HACC's occupancy standards for the requested size unit

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation and public transportation is not adequate

Transfers requested by the tenant are considered optional for the tenant.

Residents who are granted a tenant requested transfer are ineligible to move for 24 months,

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, HACC may establish other standards for considering a transfer request [PH Occ GB, p. 150].

Except where reasonable accommodation is being requested, HACC 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 HACC's advantage to make the transfer.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

When a family transfers from one unit to another the tenant will be billed for any maintenance or other charges due for the "old" unit. HACC will refund the security deposit, less any charges, within 45 days (21 days for Evanston Properties). HACC must receive the security deposit due for the new unit within 60 days of the transfer.

12-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, administrative transfers (for HACC purposes) and reasonable accommodation reasonable transfer costs will be borne by HACC.

12-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, HACC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, HACC will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

HACC 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.

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.

HACC will respond within 10 business days of the submission of the family's request. If HACC denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

HACC 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
2. Reasonable Accommodation/Verified medical condition
3. Transfer to make an accessible unit available
4. Demolition, renovation, etc.
5. Other HACC required transfers
6. Verifiable employment related transfers
7. Occupancy Standards (over/under housed)

Within each category, transfers will be processed in order of the date the family was placed on the transfer list, starting with the earliest date.

Demolition and renovation transfers will gain the highest priority as necessary to allow HACC to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

Residents will receive one offer for an HACC-required transfer and two offers for a resident-requested transfer.

When the transfer is required by HACC, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of the second offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

After a unit is accepted residents must move to the new unit within 30 calendar days.

12-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:

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

The family demonstrates to HACC'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, or risk assessments related to witness protection from a law enforcement agency. 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.

HACC will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

If subject to deconcentration requirements, HACC will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve HACC's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will remain as the original anniversary date when a tenant transfers to a new unit..

CHAPTER 13

LEASE TERMINATIONS

INTRODUCTION

A HACC Lease Agreement establishes the basis of a legal relationship between them as landlord and the tenant. Either party that is a part of the lease, in accordance with all applicable federal, state laws or local landlord-tenant ordinances can terminate the agreement. HACC's lease is different from a private dwelling lease in as much a family's rental assistance is attached to the unit and not the family, so when the family moves out of the unit, the rental assistance is lost. HACC abides by 24 CFR 966.4 (1) which allows for lease termination due to infractions of serious and repeated violations of material provision of the lease. HACC will exercise a "One Strike and You're Out" policy that prohibits admission or tenancy into any public housing program if an applicant or resident has been convicted or even engaged in certain criminal activity, or if HACC 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.

This chapter presents the policies that govern both the family's and HACC'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 HACC places upon families who wish to terminate their lease.

Part II: Termination by HACC - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by HACC occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by HACC – Other Authorized Reasons. This part describes HACC's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes HACC to terminate. For some of these options HUD requires HACC to establish policies and lease provisions for termination, but termination is not mandatory. For other options HACC has full discretion whether to consider the options as just cause to terminate as long as HACC's policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that HACC may consider in lieu of termination, and the criteria HACC 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 HACC's policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or HACC's central office or sent by pre-paid first-class mail, properly addressed.

HACC Policy

If a family desires to move and terminate their tenancy with HACC, they must give at least 30 calendar days advance written notice to HACC of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control, HACC, at its discretion, may waive the 30-day requirement.

Manager may charge up to 30 days' rent if tenant fails to provide 30 days' notice unless it is due to circumstances beyond tenant's control.

The notice of lease termination must be signed by the head of household, spouse, or co-head of household.

PART II: TERMINATION BY HACC – MANDATORY

13-II.A. OVERVIEW

HUD requires HACC to terminate the lease in certain circumstances. In other circumstances HUD requires HACC to establish provisions for lease termination, but it is still HACC's 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, HACC has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires HACC to terminate the lease.

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

HACC 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.

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

HACC 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 HACC, 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.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3)]

HACC must terminate the lease if a resident family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age. See Chapter 7 for a complete discussion of documentation and certification requirements.

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

HACC must terminate the lease if the family fails to accept HACC's offer of a lease revision to an existing lease, provided HACC has done the following:

- The revision is on a form adopted by HACC in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- HACC has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- HACC has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to HACC's policies for offering lease revisions.

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

HACC must immediately terminate the lease if HACC determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Section 13-III.B. for the HUD definition of *premises.*

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

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

PART III: TERMINATION BY HACC – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring HACC to terminate the lease under the circumstances described in Part II, HUD requires HACC 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 HACC to terminate for such violations in all cases. HACC has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and HACC may, as an alternative to termination, require the exclusion of the culpable household member. HACC must make policy decisions concerning these options.

In addition, HUD authorizes HACC 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. HACC must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of HACC lease. In the development of the terms of the lease, HACC 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 HACC wide discretion in some areas, a broad range of policies could be acceptable.

HACC, with some restrictions, also has the option to terminate the tenancies of families who are over income.

HACC may consider alternatives to termination and must establish policies describing the criteria HACC will use when deciding what action to take, the types of evidence that will be acceptable, and the steps HACC must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(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 HACC to terminate for such violations in all cases; therefore, HACC's 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.

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 HACC-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

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(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in, on, or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

HACC Policy

HACC 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.

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

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

The lease must provide that HACC may evict a family when HACC 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.

HACC Policy

HACC will terminate the lease when HACC determines that a household member is illegally using a drug or HACC 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 twelve months.

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

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HACC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises are grounds for termination of tenancy.

HACC Policy

HACC 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 HACC 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.

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

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

HACC must establish standards that allow termination of tenancy if HACC 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.

HACC Policy

HACC will terminate the lease if HACC 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 twelve months.

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

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

HACC must establish standards that allow termination of tenancy if HACC 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.

HACC Policy

HACC will terminate the lease if HACC 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.

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

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination.

HACC Policy

This Lease may be terminated only for serious or repeated violations of material terms of the Lease, such as failure to make payments due under the Lease or to fulfill Tenant obligations set forth in Section IX above, or for other good cause. Such serious or repeated violation of terms shall include but not be limited to:

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 HACC for the benefit and well-being of the housing project and the tenants, which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

Not to make any alterations to the unit without written approval by HACC. Tenant must return the unit back to its original condition prior to vacating the unit except for reasonable wear and tear. If tenant fails to do so all charges incurred by HACC in returning the unit back to its original condition will be billed to the tenant.

To ensure that Tenant, any member of the household, a guest, or another person under Tenant's control, shall not engage in: Any criminal conduct, behavior that threatens, harasses or endangers other residents or HACC staff, or otherwise diminishes the peace and tranquility of the Authority's property or surrounding community, or; Any drug-related criminal activity on or off the premises. Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy and for eviction from the dwelling unit

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

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

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

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

HUD regulations state that HACC may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit HACC to only those examples.

HACC Policy

HACC 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 materially 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 HACC 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 HACC that such a dwelling unit is available

Failure to permit access to the unit by HACC 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 HACC 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 HACC pet policy

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

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 other tenants or HACC personnel.

Abusive or violent behavior towards other tenants or HACC 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, HACC will consider alternatives as described in Section 13-III.D. and other factors described in Section 13-III.E. Upon consideration of such alternatives and factors, HACC may, on a case-by-case basis, choose not to terminate the lease.

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

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

HACC Policy

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

The family must promptly notify HACC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 15 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 30 consecutive days, (or 90 cumulative days) within a 12 month period, and the family has failed to notify HACC of such absence, and/or the family does not adequately verify that they are living in the unit, HACC will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, HACC will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, HACC will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes HACC to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, HACC 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 HACC to evict over-income residents, but rather gives HACC the discretion to do so thereby making units available for applicants who are income-eligible.

HACC Policy

HACC will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that HACC may consider exclusion of the culpable household member. Such an alternative can be used, by HACC policy, for any other reason where such a solution appears viable.

HACC Policy

HACC 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 HACC request.

Repayment of Family Debts

HACC Policy

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

Other Mandates by Local Government

HACC Policy

A family must comply with all landlord and tenant ordinances and laws enacted by the local governing body.

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

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits HACC 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.

HACC Policy

HACC 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 show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that HACC 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.

HACC Policy

HACC 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 or a person with disabilities

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 HACC's failure to terminate the tenancy

The effect of HACC'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

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

HUD authorizes HACC 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.

HACC 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, HACC 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, HACC 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, HACC's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HACC Policy

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

HACC's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

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

HUD authorizes HACC to conduct criminal records checks on public housing residents for lease enforcement and eviction. HACC's policy determines when HACC will conduct such checks.

HACC Policy

HACC will conduct criminal records checks when it has come to the attention of HACC, 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.

HACC may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if HACC 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 HACC 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, HACC 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.

HACC Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, HACC 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.

While there is no formal grievance in cases of termination for criminal activities, the family will be given 10 business days from the date of HACC's notice, to dispute the accuracy and relevance of the information. If the family does not contact HACC to dispute the information within that 10 business day period, HACC 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 HACC's action in a court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine HACC's documents directly relevant to the termination or eviction. If HACC does not make the documents available for examination upon request by the tenant, HACC may not proceed with the eviction [24 CFR 996.4(m)].

When HACC 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 HACC'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 HACC 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 HACC 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 HACC, or for a drug-related criminal activity on or off the premises.

HACC Policy

HACC will attempt to deliver notices of lease termination directly to the tenant or any member of the household over 13 years of age. If such attempt fails, the notice will be sent by first class mail the same day.

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

HACC must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

  If the health or safety of other residents, HACC employees, or persons residing in the immediate vicinity of the premises is threatened

  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

  If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

HACC Policy

HACC will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations HACC will give 30 days' written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When HACC 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 Chapter 11, Section 11-I.E.

HACC 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 Chapter 11, Section 11-I.E. and will also serve as the notice of termination of tenancy.

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

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 HACC, either upon completion of the USCIS appeal or, in lieu of the USCIS appeal. Please see Chapter 14 for HACC's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. HACC 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.

HACC Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, HACC 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, HACC will seek the assistance of the court to remove the family from the premises as per state and local law.

HACC may not proceed with an eviction action if HACC 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(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When HACC evicts an individual or family for criminal activity, including drug-related criminal activity, HACC must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

HACC Policy

A written record of every termination and/or eviction will be maintained by HACC 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

CHAPTER 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to HACC actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not HACC's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When HACC makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses HACC policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in HACC grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

While HACC must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, HACC could make the informal hearing process available to applicants who wish to dispute other HACC actions that adversely affect them.

HACC Policy

HACC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

HACC must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for HACC decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Chapter 3, Section 3-III.F. for details concerning this requirement.

Scheduling an Informal Hearing

HACC Policy

A request for an informal hearing must be made in writing and delivered to HACC either in person or by first class mail, by the close of the business day, no later than 30 calendar days from the date of HACC's notification of denial of admission.

HACC must schedule and send written notice of the informal hearing within 30 calendar days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

HACC Policy

The informal hearing will be conducted by a person (or persons) other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of HACC.

The person conducting the informal hearing will make a recommendation to HACC, but HACC is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision [PH Occ GB, p. 58]

HACC Policy

HACC will notify the applicant of HACC's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, HACC will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in HACC policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. HACC will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, HACC will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, HACC will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

HACC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and HACC must consider such accommodations. HACC must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while HACC hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or HACC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with HACC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When HACC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, HACC must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide HACC with a copy of the written request for appeal and proof of mailing.

HACC Policy

HACC will notify the family in writing of the results of the USCIS secondary verification within 30 calendar days of receiving the results.

The family must provide HACC with a copy of the written request for appeal and proof of mailing within 30 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to HACC, of its decision. When the USCIS notifies HACC of the decision, HACC must notify the family of its right to request an informal hearing.

HACC Policy

HACC will send written notice to the family of its right to request an informal hearing within 30 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that HACC provide a hearing. The request for a hearing must be made either within 30 days of receipt of HACC notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

HACC must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of HACC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

HACC Policy

The family will be allowed to copy any documents related to the hearing at no cost. The family must request discovery of HACC documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by HACC, and to confront and cross-examine all witnesses on whose testimony or information HACC relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or HACC, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, HACC is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. HACC may, but is not required to provide a transcript of the hearing.

HACC Policy

HACC will not provide a transcript of an audio taped informal hearing.

Hearing Decision

HACC must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

HACC must retain for a minimum of 5 years the following documents that may have been submitted to HACC by the family, or provided to HACC as part of the USCIS appeal or HACC informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that HACC provide a hearing. The request for a hearing must be made either within 30 days of receipt of HACC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

HACC must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any HACC action or failure to act involving the lease or HACC policies which adversely affect their rights, duties, welfare, or status.

HACC grievance procedure must be included in, or incorporated by reference in, the lease.

HACC Policy

HACC grievance procedure will be incorporated by reference in the tenant lease.

HACC must provide at least 30 days' notice to tenants and resident organizations setting forth proposed changes in HACC grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by HACC before adoption of any grievance procedure changes by HACC.

HACC Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by HACC of any proposed changes in HACC grievance procedure, to submit written comments to HACC.

HACC must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to HACC action or failure to act in accordance with the individual tenant's lease or HACC regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to HACC or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - 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 HACC including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with HACC as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of HACC's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to HACC. It is not applicable to disputes between tenants not involving HACC. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of HACC.

If HUD has issued a due process determination, HACC may exclude from HACC grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of HACC
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, HACC must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E., to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, HACC may evict through the state/local judicial eviction procedures. In this case, HACC is not required to provide the opportunity for a hearing under HACC's grievance procedure as described above.

HACC Policy

HACC is located in a due process state. Therefore, HACC will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of HACC, or for drug-related criminal activity on or off the premises.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to HACC office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

HACC Policy

HACC will accept requests for an informal settlement of a grievance either orally or in writing, to HACC office within 30 calendar days of the grievable event. Within 30 calendar days of receipt of the request HACC will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, HACC will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in HACC's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

HACC Policy

HACC will prepare a summary of the informal settlement within 30 calendar days; one copy to be given to the tenant and one copy to be retained in HACC's tenant file.

For PHA'S who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]

Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer/panel, the hearing officer/panel may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

HACC Policy

The resident must submit a written request for a grievance hearing to HACC within 10 30 calendar days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, HACC's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest HACC's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Escrow Deposits [24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that HACC claims is due, the family must pay an escrow deposit to HACC. When a family is required to make an escrow deposit, the amount is the amount of rent HACC states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer/panel.

HACC must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless HACC waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest HACC's disposition of the grievance in any appropriate judicial proceeding.

HACC Policy

HACC will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

Scheduling of Hearings [24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and HACC. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate HACC official.

HACC Policy

Within 30 calendar days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and HACC.

HACC may wish to permit the tenant to request to reschedule a hearing for good cause.

HACC Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, HACC may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.55(g)]

HACC may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of HACC, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in Section 14-III.D. is not applicable.

HACC may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

HACC Policy

HACC will not offer expedited grievance procedures.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.55(b)]

The grievance hearing must be conducted by an impartial person or persons appointed by HACC, other than the person who made or approved HACC action under review, or a subordinate of such person.

HACC Policy

HACC's Executive Director, or designee will appoint a person to serve as hearing officer. The person selected will meet the criteria of 24 CFR 966.55(b).

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any HACC documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If HACC does not make the document available for examination upon request by the complainant, HACC may not rely on such document at the grievance hearing.
- The tenant will be allowed to copy any documents from their tenant file related to the hearing at no cost. Any documents outside of the tenant file will be at the cost of the tenant, paid in advance or at the time copies are requested. The family must request discovery of HACC documents no later than 12:00 p.m. two business days prior to the hearing. If the request is considered excessive (more than 100 pages) the tenants request may not be filled if HACC is required to participate in delivering the documents.
- The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

  Hearings may be attended by the following applicable persons:

  HACC representative(s) and any witnesses for HACC

  The tenant and any witnesses for the tenant

  The tenant's counsel or other representative

  Any other person approved by HACC as a reasonable accommodation for a person with a disability
- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by HACC or project management, and to confront and cross-examine all witnesses upon whose testimony or information HACC or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56(c)]

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear [24 CFR 966.56(d)]

If the complainant or HACC fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed 5 business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and HACC must be notified of the determination by the hearing officer/panel: Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest HACC's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances, which are out of their control and are no fault of their own.

HACC Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact HACC within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

Tenants who fail to attend two scheduled hearings will not be given another opportunity for a hearing, and HACC's original decision will stand.

General Procedures [24 CFR 966.56(e), (f), and (g)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter HACC must sustain the burden of justifying HACC action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing must be conducted informally by the hearing officer/panel. HACC and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

HACC Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to HACC. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If HACC fails to comply with the discovery requirements (providing the tenant with the opportunity to examine HACC documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of HACC to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require HACC, 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/panel 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 [24 CFR 966.56(f)].

The complainant or HACC may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

HACC Policy

If the complainant would like HACC to record the proceedings by audiotape, the request must be made to HACC by 12:00 p.m. on the business day prior to the hearing.

HACC will consider that an audio tape recording of the proceedings is a transcript. Transcription of the audiotape will be at the complainant's expense.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]

HACC 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 in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of HACC's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL [24 CFR 966.57]

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and HACC. HACC must retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by HACC and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

HACC Policy

In rendering a decision, the hearing officer will consider the following matters:

HACC Notice to the Family: The hearing officer will determine if the reasons for HACC's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with HACC policy.

HACC Evidence to Support HACC Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support HACC's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and HACC policies. If the grounds for termination are not specified in the regulations or in compliance with HACC policies, then the decision of HACC will be overturned.

The hearing officer will issue a written decision to the family and HACC no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing

Name of the hearing officer

Name of HACC representative(s)

Name of family representative (if any)

Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold HACC's decision.

Order: The hearing report will include a statement of whether HACC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HACC to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct HACC to restore the family's status.

Procedures for Further Hearing

HACC Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of HACC will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on HACC which must take the action, or refrain from taking the action cited in the decision unless HACC Board of Commissioners (in this case, HACC's appointed Legal Counsel) determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern HACC action or failure to act in accordance with or involving the complainant's lease on HACC policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and HACC

  HACC Policy

  When HACC considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to HACC's appointed Legal Counsel within 10 business days of the date of the hearing officer's decision. The Legal Counsel has 30 calendar days to consider the decision. If the Legal Counsel decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners (in this case, HACC's Legal Counsel) in favor of HACC or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

CHAPTER 15

PROGRAM INTEGRITY

INTRODUCTION

HACC is committed to ensuring that funds made available to HACC are spent in accordance with HUD requirements.

This chapter covers HUD and HACC policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HACC policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures HACC must and may take when errors or program abuses are found.

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

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HACC Policy

HACC anticipates that the vast majority of families and HACC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that HACC's program is administered effectively and according to the highest ethical and legal standards, HACC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

HACC will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

HACC will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. HACC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

HACC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

HACC staff will be required to review and explain the contents of all HUD- and HACC-required forms prior to requesting family member signatures.

HACC will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key HACC forms and form letters that request information from a family member.

HACC will provide each HACC employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, HACC will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

HACC Policy

HACC will employ a variety of methods to detect errors and program abuse, including:

HACC routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

HACC will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all HACC that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HACC activities and notifies HACC of errors and potential cases of program abuse.

HACC Policy

HACC will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of HACC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HACC Policy

HACC will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When HACC Will Investigate

HACC Policy

HACC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for HACC to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

HACC will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

HACC may investigate possible instances of error or abuse using all available HACC and public records. If necessary, HACC will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

HACC Policy

HACC will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation HACC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed HACC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether HACC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HACC Policy

In the case of family-caused errors or program abuse, HACC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

HACC Policy

HACC will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which HACC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, HACC must promptly correct the tenant rent and any utility reimbursement prospectively.

HACC Policy

Increases in the tenant rent will be implemented only after the family has received 30 days' notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse HACC or HACC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows HACC to use incorrect information provided by a third party.

Family Reimbursement to HACC

HACC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. HACC may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, HACC will terminate the family's lease in accordance with the policies in Chapter 13.

HACC Reimbursement to Family

HACC Policy

HACC will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to HACC [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to HACC [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

HACC Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to HACC Board of Commissioners, employees, contractors, or other HACC representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to HACC on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

HACC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family HACC may, at its discretion, impose any of the following remedies.

- HACC may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to HACC).
- HACC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- HACC may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- HACC may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. HACC-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACC staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of HACC staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in HACC personnel policy.

HACC-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to HACC

The family is not required to repay an underpayment of rent if the error or program abuse is caused by HACC staff.

HACC Reimbursement to Family

HACC Policy

HACC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

HACC Policy

Any of the following will be considered evidence of program abuse by HACC staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to HACC

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of HACC activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

HACC Policy

When HACC determines that program abuse by a family or HACC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, HACC will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

HACCs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that HACC recovers [Notice PIH 2005-7 (HA)].

If HACC does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through HACC's grievance process.

CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of HACC-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which HACC 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 PHAS indicators, how HACC is scored under PHAS, and how those scores affect HACC.

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 HACC will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes HACC's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

HACC must establish allowances for HACC-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)].

HACC must also establish surcharges for excess consumption of HACC-furnished utilities [24 CFR 965.506].

HACC must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

HACC must establish separate allowances for each utility and for each category of dwelling units HACC determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of HACC 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 HACC 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 HACC about establishing utility allowances.

Air-Conditioning

"If HACC 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)].

HACC Policy

HACC has installed air-conditioning in elderly-designated buildings only.

Utility Allowance Revisions [24 CFR 965.507]

HACC 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.

HACC 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.

HACC Policy

Between annual reviews of utility allowances, HACC will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR HACC-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for HACC-furnished utilities where check meters have been installed, HACC 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 HACC's average utility rate. The basis for calculating the surcharges must be described in HACC's schedule of allowances. Changes in the amount of surcharges based directly on changes in HACC's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by HACC-furnished utilities where check meters have not been installed, HACC 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 HACC-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of HACC-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to HACC of the utility consumption estimated to be attributable to reasonable usage of such equipment.

HACC Policy

HACC does have HACC-furnished utilities, which includes heat and water for the elderly-designated developments, and water for the family-designated developments.

16-I.D. NOTICE REQUIREMENTS [965.502]

HACC 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 HACC's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

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

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

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

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. .

This part discusses how HACC establishes and updates flat 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.

16-II.B. FLAT RENTS [24 CFR Part 960 and 24 CFR Part 903]

Establishing Flat Rents

HACC amended its flat rent policies to comply with the statutory changes contained within, Public Law 113 – 76, the Fiscal Year 2014 Appropriation Act. HACC will set the flat rental amount for each public housing unit that complies with the requirement that all flat rents be set at no less than 80 percent of the applicable Fair Market Rent (FMR) adjusted, if necessary, to account for reasonable utilities costs [PIH 2014-12].

In order to comply with the flat rent requirements annually, PHAs must:
1) Calculate flat rents using a rent reasonableness methodology, as defined in 24 CFR Part 960.253(b), for determining the flat rent based on the market rent of comparable units in the private, unassisted rental market. Such a reasonable method should consider the location, quality, size, unit type, unit age, and any amenities;

2) If the flat rent, as determined by the rent reasonableness study, is at least 80 percent of the FMR, HACC must set flat rents at the amount determined by the rent reasonableness study;

3) If the flat rent, as determined by the rent reasonableness study, is less than 80 percent of the FMR, HACC must set flat rents at no less than 80 percent of the FMR, subject to the utilities adjustment in section 3 of Notice PIH 2014-12 (HA);

4) If the FMR falls from the previous year, HACC may, but is not required to lower the flat rent amount to 80 percent of the FMR;

5) Include a description of flat rent policies in the HACC annual plan or in documents available for a public hearing as applicable;

6) Update the flat rent policies in the Admissions and Continued Occupancy Policies (ACOP) as necessary;

7) At all new admissions permit the family to choose between the flat rent amount and the income-based rent;

8) For families that are already paying the flat rent amount, HACC must offer any changes to flat rent amount at the next annual rent option, and permit the family to choose between the flat rent amount and the income-based rent, subject to the requirements of Section 6 of Notice PIH 2014-12 (HA); and

9) Upon issuance of new FMRs by HUD, HACC must:

- Determine if the current flat rent is at least 80% of the new FMR;

 Update the flat rent amounts if necessary to meet the 80% requirement within a reasonable time but no later than 90 days of HUD publishing new FMRs;

 Apply the new flat rents to all new admissions and to existing families at the next annual rent option, subject to Section 6 of Notice PIH 2014-12 (HA).

Flat Rent Increase Phase-In Requirements

Section 210 of the FY 14 Appropriations Act requires that if an existing tenant's rental payment would be increased by 35 percent or more as a result of changes to the flat rent amount, that the increase must be phased in such that a family would not experience an increase in their rental payment of more than 35 percent in any one year. HACC has discretion to phase-in rent increases 35 percent or less over a three-year period. For example, for a family that will experience a rent increase of 10 percent due to the new flat rent requirements, a PHA could choose to phase in the total rent increase over three years.

In order to determine how to phase-in increases in rental payments, HACC must:

1) On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit for which a family is currently paying the flat rent to the flat rent that was being paid by the family immediately prior to the annual rent option;

a. If the new flat rent amount would not increase a family's rental payment, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent; b. If the updated flat rent amount would increase a family's rental payment, HACC must conduct a flat rent impact analysis by multiplying the existing flat rent amount by 35 percent (or a lesser amount pursuant to state/local law) and adding that product to the flat rent amount (FR x 35%= X + FR). This calculation can be done by simply multiplying the current flat rent amount by 1.35. PHAs must then compare the product of the calculation to the updated flat rent amount; and

2) HACC must offer and the family may choose to pay, either the lower of the flat rents that were compared in the flat rent impact analysis or the previously calculated income-based rent.

PART III: FAMILY DEBTS TO HACC

16-III.A. OVERVIEW

This part describes HACC's policies for recovery of monies that have been underpaid by families.

HACC Policy

When an action or inaction of a resident family results in the overpayment of subsidy, HACC holds the family liable to return any overpayments to HACC.

HACC will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term r*epayment agreement* refers to a formal document signed by a tenant and provided to HACC in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to HACC, HACC will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

16-III.B. REPAYMENT POLICY

Family Debts to HACC

HACC Policy

Any amount due to HACC by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, HACC may offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, HACC will terminate the family's tenancy in accordance with the policies in Chapter 13. HACC will also pursue other modes of collection.

Repayment Agreement Guidelines

The resident family and the HACC may enter into and agree to one rent repayment plan in any consecutive 12 month period. The repayment plan may not result in the Total Tenant Payment to be more than 40% of the adjusted monthly income. The resident may be required to make a minimum deposit of 50% of the past due debt in order for HACC to enter into the Repayment Plan, and the tenant be considered lease compliant. The head of the household and spouse/co-head (if applicable) must both sign the repayment plan document. All payments are due by the close of the business day on the 1st day of the month until paid. All repayment plans must be repaid within 24 months.

Non-Payment of Repayment Agreement

HACC 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 HACC, HACC 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 HACC will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

HACC Policy

HACC will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (HACC)

16-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 HACC, 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.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of PHAS indicators, the points possible under each indicator, and a brief description of each indicator. HACC'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.

16-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

16-V.A. OVERVIEW

HACC 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, HACC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

HACC Policy

During the term of each public housing tenancy, and for at least four years thereafter, HACC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, HACC 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 HACC scores

Accounts and other records supporting HACC budget and financial statements for the program

Other records as determined by HACC 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 Chapter 14, Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

HACC must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HACC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACC staff.

HACC 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 HACC may release the information collected.

Upfront Income Verification (UIV) Records

HACC 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 *Enterprise Income Verification (EIV) System HACC Security Procedures*, Version 1.2, issued January 2005.

HACC Policy

Prior to utilizing HUD's EIV system, HACC will adopt and implement EIV security procedures required by HUD.

Criminal Records

HACC may only disclose the criminal conviction records which HACC receives from a law enforcement agency to officers or employees of HACC, or to authorized representatives of HACC who have a job-related need to have access to the information [24 CFR 5.903(e)].

HACC must establish and implement a system of records management that ensures that any criminal record received by HACC 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 HACC action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

HACC must establish and implement a system of records management that ensures that any sex offender registration information received by HACC 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 HACC 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 HACC other than under 24 CFR 5.905.

Medical/Disability Records

HACC are not permitted to inquire about the nature or extent of a person's disability. HACC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If HACC receives a verification document that provides such information, HACC should not place this information in the tenant file. HACC should destroy the document.

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

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

HACC has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

HACC will follow all guidelines outlined in Notice PIH 2017-13 (HA); OHHLHC 2017-01 Guidance on HUD's Lead Safe Housing Rule Pertaining to Elevated Blood Lead Levels for the Public Housing.

Notice PIH 2017-13 (HA) states the update to the HUD's Lead Safe Housing Rule (LSHR) revised the type of evaluation that must be performed for the housing unit of a child with an EBLL, and added risk assessment requirements covering certain other units, and new reporting requirements. Under the new regulations, the evaluation for the child's unit must be an environmental investigation. The key changes in the LSHR include revising HUD's "Environmental Investigation Blood Lead Level" (EIBLL) to the EBLL, enhancing the level of investigation required for a housing unit of a child with an EBLL to an "environmental investigation" and adding a requirement for testing in other covered units when a child is identified in a multiunit property.

HACC is the designated party and is responsible for all the activities regarding EBLL response.

When a child under 6 is identified with an EBLL, HACC is responsible for the following steps:

Initial notification of a confirmed case to HUD: HACC must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.

Initial notification of a confirmed case to public health department, when necessary: HACC must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.

Verification of the case, when necessary: If HACC learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, HACC must immediately verify the report with the health department or medical health care provider.

Environmental Investigation: HACC must conduct an environmental investigation of the child's unit and the common areas servicing that unit within 15 calendar days in accordance with Chapter 16 of the HUD Guidelines, as described in section 6 in Notice PIH 2017-13 (HA); OHHLHC 2017-01 . If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units, as described in section 9 below.

Control: HACC must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

Notification to other residents: As already required by the LSHR, in a multiunit property, HACC must notify all residents of lead evaluation and hazard control