

ADMISSIONS AND CONTINUED OCCUPANCY PLAN

FOR THE

MANCHESTER HOUSING AND REDEVELOPMENT AUTHORITY

Manchester, New Hampshire

Pending Approval by
Board of Commissioners
October 1, 2020

Andrew Papanicolau, Chair
Mike Lopez, Vice-Chair
Marion G. Russell, Commissioner
David H. Quinn, Commissioner

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Public Housing Program was created by the U.S. Housing Act of 1937.

Administration of the Public Housing program and the functions and responsibilities of the Manchester Housing and Redevelopment Authority (MHRA) staff shall be in compliance with MHRA's Personnel Policy, any union agreements of MHRA, and this Admissions and Continued Occupancy Plan. The administration of MHRA's Public Housing program will also meet the requirements of the U. S. Department of Housing and Urban Development. Such requirements include any Public Housing regulations, handbooks, and applicable notices. All applicable federal, state and local laws, including Fair Housing Laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Parts 1, 5, 8, 100 and 900-966. (Code of Federal Regulations).

1-IA. MANCHESTER HOUSING AND REDEVELOPMENT AUTHORITY MISSION STATEMENT

"The mission of the Manchester Housing and Redevelopment Authority is to provide and sustain affordable, secure, quality living environments for low income families and individuals; to provide personal and economic enrichment and independence opportunities for residents; to act as a catalyst and community partner in developing new low income affordable housing opportunities; and to engage in community revitalization initiatives to improve neighborhoods, promote economic development, increase employment opportunities and broaden the local tax base."

1-IB. LOCAL OBJECTIVES

This Admissions and Continued Occupancy Plan for the Public Housing program is designed to demonstrate that MHRA is managing its program in a manner that reflects its commitment to improving the quality of housing available to the public, and its capacity to manage that housing in a manner that demonstrates its responsibility to the public trust. In addition, this Admissions and Continued Occupancy Plan is designed to achieve the following objectives:

- To provide improved living conditions for extremely low, very low and low-income families while maintaining their rent payments at an affordable level
- To operate a socially and financially sound public housing agency that provides decent, safe and sanitary housing within a drug fee, suitable living environment for residents and their families
- To avoid concentrations of economically and socially deprived families in any one or all of MHRA's public housing developments

- To lawfully deny the admission of applicants, or the continued occupancy of residents, whose habits and practices reasonable may be expected to adversely affect that health, safety, comfort or welfare of the residents or the physical environment of the neighborhood, or create a danger to MHRA employees
- To attempt to house a resident body in each development that is composed of families with a broad range of incomes and rent-paying abilities that are representative of the range of incomes of low – income families in MHRA’s jurisdiction
- To provide sufficient opportunities for upward mobility for families who desire to achieve self-sufficiency
- To facilitate the judicious management of MHRA inventory and the efficient management of MHRA staff
- To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable federal laws and regulations so that the admissions and continued occupancy are conducted without regard to age, race, color, religion/creed, sex, sexual orientation, national origin, disability, marital status or familial status

1-IC. PURPOSE OF THE PLAN

The purpose of this Admissions and Continued Occupancy Plan (ACOP) is to establish guidelines for MHRA staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements of the U. S. Department of Housing and Urban Development (HUD) with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and MHRA.

MHRA Board of Commissioners must approve the original policy and any changes. Required portions of this policy will be provided to HUD.

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

This chapter explains the laws and HUD regulations requiring MHRA to affirmatively further civil rights and fair housing in all of our federally-assisted housing programs. These laws are implemented through consistent policy and procedures. MHRA is committed to nondiscrimination in all areas of the MHRA's public housing operations.

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

Part I: Non-discrimination. This part presents the body of laws and regulations governing the responsibilities of MHRA regarding non-discrimination.

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of MHRA to ensure meaningful access to the public housing program and its activities by persons with Limited English Proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NON-DISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)

- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- The Violence against Women Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

2-I.B. NON-DISCRIMINATION

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

MHRA will 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.

The MHRA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

MHRA will not use any of these factors to:

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

- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families

To further its commitment to full compliance with civil rights laws, MHRA takes steps to ensure that families are fully aware of all applicable civil rights requirements by providing information to public housing applicants and residents as part of the public housing orientation and move-in processes.

Discrimination Complaints

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

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

Upon receipt of a housing discrimination complaint employees are to complete a Preliminary Discrimination Complaint Form ("Form"). This one-page document is intended to provide a brief description of a complaint and is to be forwarded to the Fair Housing Officer who is responsible for investigating claims of discrimination from residents or applicants of the Authority.

In accordance with MHRA's Fair Housing Policy, the Fair Housing Officer will investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted.

MHRA will keep a record of all complaints, investigations, notices and corrective actions. [Notice PIH 2014-20]

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

Manchester Housing and Redevelopment Authority (MHRA) is committed to ensuring that its policies practices and procedures do not deny individuals with disabilities the opportunity to participate in, or benefit from, nor otherwise discriminate against individuals with disabilities, on the basis of disability, in connection with the operations of MHRA's programs, services and activities.

The availability of an accommodation is made known with the first inquiry of an interested family and continues through every programmatic area of all MHRA programs. This will include notification of the right to request an accommodation on forms and letters to applicants and resident families. [24 CFR 8].

Tenants may, at any time during the tenancy, request reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

MHRA will post a copy of this Reasonable Accommodation Policy and Procedures in the Central Administrative Office located at 198 Hanover Street, Manchester, NH, and the management office in

each public housing development. In addition, individuals may obtain a copy of this Reasonable Accommodation Policy and Procedures, upon request, from MHRA's Fair Housing Officer/Section 504 Compliance Monitor.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for MHRA, 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), MHRA 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
- Providing "large-print" forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a MHRA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

Individuals should submit their reasonable accommodation request(s) in writing using the reasonable accommodation request form. However, MHRA will consider all accommodations any time the family indicates a request is needed whether or not a formal written request is provided. MHRA will ensure that all reasonable accommodation requests are documented in writing. If needed as a reasonable accommodation, MHRA will assist the individual in completing the Request Form.

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

- The MHRA must request only information that is necessary to evaluate the disability-related need for the accommodation. MHRA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the MHRA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, MHRA will dispose of it. In place of the information, the MHRA will include in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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

The MHRA 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 MHRA, or fundamentally alter the nature of the MHRA'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 overall size of the MHRA program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

After a request for an accommodation is presented, the MHRA will respond, in writing, within 30 business days.

If MHRA 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 MHRA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 16).

If the MHRA 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 the MHRA's operations), MHRA 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 MHRA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the MHRA 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 the MHRA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 16).

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

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

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

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. .

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

2-II.G. PHYSICAL ACCESSIBILITY

MHRA complies with regulations pertaining to physical accessibility, including the following.

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

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

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

The design, construction, or alteration of MHRA's facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

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

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

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

MHRA will also provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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

2-III.A. OVERVIEW

It is the policy of Manchester Housing and Redevelopment Authority ("MHRA") to take reasonable steps to provide meaningful access to its programs and activities for persons with Limited English Proficiency (LEP). The policy is to ensure that staff will communicate effectively with LEP individuals, and that LEP individuals will have access to important programs and information. MHRA is committed to complying with federal requirements in providing free meaningful access to its programs and activities for its LEP clients.

2-III.B. WHO IS LIMITED ENGLISH PROFICIENT (LEP)

LEP individuals do not speak English as their primary language and have a limited ability to read, write, speak, or understand English.

- Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently.
- LEP status may be context-specific – an individual may have sufficient English language skills to communicate basic information (name, address etc.) but may not have sufficient skills to

communicate detailed information (e.g., program requirements, policies and procedures) in English.

2-III.C. BACKGROUND

- Federal law prohibits discrimination based on national origin. National origin discrimination includes discrimination based on a person's inability to speak, read, write or understand English. Recipients of federal funds must provide meaningful access to LEP persons in federal and federally assisted programs and activities.
- On August 11, 2000, Executive Order 13166, titled, "**Improving Access to Services by Persons with Limited English Proficiency**," was issued. Executive Order 13166 requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP, cannot fully and equally participate in or benefit from those programs and activities. Section 2 of the Executive Order 13166 directs each federal department or agency "to prepare a plan to improve access to...federally conducted programs and activities by eligible LEP persons...."
- This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

2-III.D. FRAMEWORK FOR DECIDING WHEN LANGUAGE SERVICES ARE NEEDED

MHRA will take the following steps to ensure meaningful access to its programs, services and activities for LEP individuals in a manner that balances the following four factors:

Four-Factor Analysis:

1. The number or proportion of LEP persons eligible to be serviced or likely to be encountered by MHRA;
2. The frequency with which LEP persons using a particular language come in contact with MHRA;
3. The nature and importance of the MHRA program, activity, or service provided to the person's life; and
4. The resources available to MHRA, and costs associated with different language service options.

2-III.E. DEFINITIONS

- Primary Language – The language in which an individual is most effectively able to communicate.
- Limited English Proficiency Person-Any person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. Such person(s) shall be entitled to language assistance at no cost to themselves with respect to a particular type of service, benefit or encounter.
- Interpretation – The act of listening to a communication in one language and orally converting it into another language, while retaining the same meaning. Interpreting is a sophisticated skill needing practice and training, and should not be confused with simple bilingualism. Even the most proficient bilingual individuals may require additional training and instruction prior to serving as interpreters. Qualified interpreters are generally required to have undergone rigorous and specialized training.

- Translation – The replacement of written text from one language into an equivalent written text in another language. Translation also requires special knowledge and skills.
- Bilingual – The ability to speak two languages fluently and to communicate directly and accurately in both English and another language.
- Direct Communication – Monolingual communication in a language other than English between a qualified bilingual employee or other bilingual person and an LEP individual (e.g., Spanish to Spanish).
- Vital documents – Any document that contains information that is critical for obtaining or maintaining the services or benefits that are supported by the Federal funds or that are required by law.
- Title VI Officer—MHRA Policy and Compliance Officer/Fair Housing Officer shall serve as the Title VI Compliance Officer for purpose of this plan.
- Language Identification card- I-speak card and or poster
- Language line service – is a method of communication utilizing a third party translator via an electronic communication device.

2-III.F. LEP MONITORING AND UPDATING THE LEP

Monitoring and implementation of the Plan will be conducted by the managers in each service area. The Plan will be reviewed annually by the LEP Committee to determine whether updates are needed. The LEP Committee will comprise of MHRA's: Senior Asset Manager, Policy and Compliance Officer, Resident Services Director, Tax Credit Administrator, Property Managers and Leased Housing Manager. The LEP Committee will:

- Coordinate identification of language service needs and strategies so that staff will have access to appropriate language services in their interactions with clients.
- Ensure the agency's compliance with the LEP Policy and Plan.
- Identify and provide for training needs for staff on implementation of LEP Plan and the use of language service providers.
- Provide LAP to new employees as part of the orientation process.
- Establish and maintain the agency's language assistance resource list.
- Establish a bilingual staff list. Review qualifications of bilingual staff to ensure quality and skill level. Ensure all employees receive a copy of this list and know the procedure for contacting and/or scheduling contracted interpreters.
- Develop a system to maintain data on selected interactions with LEP persons and provide reports to management, as appropriate. A language log will be maintained by each department representative, including the reception desk.
- Conduct an annual review to assess changes, if any, in:
 - Census data;
 - Current LEP populations affected or encountered;
 - Frequency of encounters with LEP language groups;
 - The nature and importance of activities to LEP persons;
 - The availability of resources, including technological advances and sources of additional resources, and the costs imposed;
 - Whether existing LAP is meeting the needs of LEP persons;
 - Whether staff understands the LAP and how to implement it; and
 - Whether identified sources for assistance are still available.

2. III.G. LANGUAGE ASSISTANCE OPTIONS

MHRA will offer the opportunity for meaningful access to LEP clients. If a client asks for language assistance, or if staff identifies a client who needs assistance, MHRA will make reasonable efforts to provide free language assistance.

The following options are used for providing language services:

- **Oral Interpretation Services**

Staff/In-House Services

Quality oral interpretation services will be provided to all LEP client's in some form. Depending on the circumstances, reasonable oral interpretation assistance might be offered through a bilingual employee or telephone service line. It is the LEP client's decision whether to use family members or friends as interpreters. Extra caution will be exercised when the LEP client chooses to use a minor. MHRA will ensure that the LEP client's choice is voluntary, that the LEP client is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP client knows that MHRA will provide a competent interpreter at no cost to the LEP client. No adverse action will be taken against an LEP client using a child (anyone under the age of 18) as an interpreter.

- **Outside Services**

When interpretation services are needed, MHRA will first attempt to provide services using qualified bilingual employees or a telephone service line as noted above. When qualified bilingual employees are unavailable, or when qualified bilingual employees lack the skills to provide reasonable and timely oral interpretation assistance, MHRA will provide services using qualified interpreters.

- **Written Interpretation Services**

Vital Forms and Documents

Using the four-factor analysis, MHRA will identify the particular languages most frequently encountered by LEP persons. Vital documents/written materials and most commonly used forms will be translated into the identified languages. The use of "tag lines" on other correspondence will be used to advise recipients to contact MHRA if they cannot read the English document.

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

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

For fewer persons in a language group that reaches the 5 percent trigger, MHRA

may not translate vital written materials, but will provide oral interpretation of those written materials, free of cost.

- **Deciding Which Language Assistance Option to Use**

The types of language assistance resources MHRA decides to use will depend on the four-factor analysis and may be different in different types of activities. For more rarely-encountered languages, telephonic or contract interpretation may be a preferred option.

2-III.H. PERSONNEL/HUMAN RESOURCE PLANNING

The Language Assistance Plan for management includes planning on personnel and human resource matters, such as:

- Consideration of language needs and inclusion of second language skills in recruitment, hiring, and promotion plans and criteria.
- Providing training opportunities to improve existing language skills for staff.
- Informing new employees of MHRA's duty to offer free language assistance in compliance with federal requirements.

2-III.I. TRAINING

Training is critical so that staff understands how to access language services, and so that those staff involved in actually providing the language services are competent to do so. Initial and periodic training will be conducted for staff coming into contact with LEP persons. Training will include:

- An in-depth discussion of the plan.
- How to respond to LEP callers.
- How to respond to written communications from LEP clients.
- How to respond to LEP clients who contact the MHRA in person.
- How to use the "I Speak" cards.
- How to use the Language Line Service.
- Which staff and outside vendors are available for interpretation at appointments.
- The location of translated documents.

Bilingual staff will receive additional training that will address:

- How to adhere to their role as interpreters without deviating into a role as counselor, legal advisor, or other roles.
- The specialized knowledge of the area of service or programs that LEP clients are applying for or participating in (if necessary).
- How to be competent and knowledgeable in providing interpretation that preserves confidentiality.

2- III.J. MONITORING

MHRA will monitor LEP compliance by:

- Setting forth clear expectations for staff and managers regarding language assistance.
- Implementing a system to monitor effectiveness of the Plan and its implementation.
- Seeking feedback on the quality and effectiveness of the language service resources available and utilization by staff.
- Reviewing programs and the language resources available at least once per year (or as appropriate), and making adjustments as necessary and appropriate to ensure meaningful access and to reflect improved approaches to providing language access.
- MHRA will ensure the quality and competency of Bilingual staff through annual peer review; professional translations and interpretation services will be contracted to recognized agencies capable of ensuring the quality and competency of their staff.
- MHRA will maintain a log of all activity relating to requests for language assistance. The log will indicate the date, the program/development, language requested, outcome (bilingual staff, contracted translator, language line, etc.)

2-III.K. LANGUAGE ASSISTANCE MEASURES AND INTERNAL CONTROLS

The following procedures will be used to provide language assistance:

1. Telephone communication:

Callers with limited English proficiency often have an English speaking person present when they call.

Ask that English speaking person to identify the language need of the caller.

- Contact a manager who will arrange for translation services at an agreeable time for all parties.

2. Written communication:

Contact a manager or designated staff who will arrange for translation of the document.

3. Walk-ins and individuals at the front desk who need translation services:

Identify the language service required using the “I Speak” cards. Contact a manager or designated staff who will arrange for translation services at an agreeable time for all parties. A notice to advise LEP clients of their right to an interpreter free of charge will be posted at the front desk and in the conference room.

The Manager or designated staff will:

- Contact a translator from the approved list.
- Negotiate an hourly rate for services required.
- Have the translator sign a confidentiality agreement.
- Arrange a date and time for the translation to take place.
- Arrange for payment of services rendered.

- Use the Language Line Services as needed.

2-III.L. Language and Complaint Process

- LEP individuals wishing to file a grievance or complaint with MHRA should contact the LEP Coordinator at MHRA's main office. The LEP Coordinator will report the complaint to the Executive Director. A written response to the individual will be made within fifteen (15) days. The individual has ten (10) days to respond to the notice of decision.
- LEP individuals can file a discrimination complaint in accordance with federal regulations online at the HUD website or by contacting the local HUD office at:

U.S. Department of Housing and Urban Development

Manchester Field Office

1000 Elm Street, 8th Floor

Manchester, NH 03101-1730

Telephone: (603) 666-7510

Facsimile: (603) 666-7667

TTY: (603) 666-7518

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person

who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

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

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

Chapter 3

APPLYING AND ELIGIBILITY FOR ADMISSION

INTRODUCTION

The policy of MHRA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. Applicants will be placed on the waiting list in accordance with this Policy.

MHRA is responsible for ensuring that every individual 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 MHRA to confirm eligibility and determine the level of the family's assistance.

This Chapter defines both HUD's and MHRA's criteria for admission and denial of admission to the program. The policy of MHRA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. MHRA staff will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by MHRA pertaining to their eligibility.

This chapter contains five parts:

Part I: How to Apply for Assistance – This part contains information on how to apply, preliminary application procedures and processing of the application

Part II: Eligibility for Admission – This part contains information on basic eligibility

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

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

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

PART I: HOW TO APPLY FOR ASSISTANCE

3 – I. A. Overview

The primary purpose of the intake function is to gather information about the family, but MHRA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made.

3 – I. B. HOW TO APPLY

Families who wish to apply for any of MHRA's programs must complete a written preliminary application form when preliminary application taking is open. Applications will be made available in an accessible format upon request from a person with disabilities.

Preliminary applications will be mailed to interested families upon request or may be obtained at MHRA's Main Office or on MHRA's web site at www.manchesterhousing.org.

Persons with disabilities may call MHRA to receive an application through the mail or make other arrangements to complete their preliminary application.

Preliminary applications will be accepted at MHRA's Main Office for all waiting lists.

The application process will involve two phases:

1. The first is the preliminary application for admission. This first phase is to determine the family's eligibility for, and placement on, the waiting list. The preliminary application will be dated and time-stamped and referred to MHRA's office where resident selection and assignment is processed.
2. The second phase is the "final determination of eligibility for admission" (referred to as the Personal Declaration Application). This application takes place when the family nears the top of the waiting list. At this phase MHRA ensures that verification of all HUD and MHRA eligibility factors is current in order to determine the family's eligibility for an offer of a suitable unit.

3 –I. C. PRELIMINARY APPLICATION PROCEDURES

The purpose of the preliminary application is to permit MHRA to assess family eligibility or ineligibility and to determine placement on the waiting list.

Translation will be provided for non-English speaking applicants as requested.

The preliminary application will contain questions designed to obtain the following information:

- Names of head of household/spouse/cohabitant

- Names of adult members and age of all members
- Number of family members (used to estimate bedroom size needed)
- Current street address and phone numbers
- Mailing address (if PO Box or other permanent address)
- Monthly income
- Source(s) and amounts of income received by household members
- Sufficient additional information to determine preference qualification
- Information regarding request for reasonable accommodation or for accessible unit
- Social Security numbers of all family members
- Race/ethnicity
- Questions regarding previous participation in HUD programs

Duplicate preliminary applications, including applications from a segment of an applicant household, will not be accepted.

Preliminary applications will not require interviews. Information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the Personal Declaration Application process is completed and all information is verified.

Applicants are required to inform MHRA (in writing) of changes in family composition, income, and address, as well as any changes in their preference status. Applicants are also required to respond to requests from MHRA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list. (See chapter on Complaints, Grievances and Appeals.)

3 –I. D. NOTIFICATION OF APPLICANT STATUS

If after a review of the preliminary application the family is determined to be preliminarily eligible, they will be notified in writing (in an accessible format upon request, as a reasonable accommodation).

This notice will contain the estimated length of time that the applicant must wait before assistance may be offered, and will further explain that the estimated wait is subject to factors such as unit availability. This written notification of preliminary eligibility will be mailed to the applicant by

first class mail.

If the family is determined to be ineligible based on the information provided in the preliminary application, MHRA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), give them the opportunity for a meeting to explain the determination of ineligibility and their right to an informal hearing. Persons with disabilities may request to have an advocate attend the informal hearing as an accommodation. See chapter on "Complaints, Grievances and Appeals."

3 – I. E. COMPLETION OF A PERSONAL DECLARATION APPLICATION

All preferences claimed on the preliminary application or while the family is on the waiting list will be verified after the family is selected from the waiting list and prior to completing the Personal Declaration Application.

The Personal Declaration Application will contain questions designed to obtain the following information:

- Names of head and spouse/cohabitant
- Names of adult members and age of all members
- Number of family members (used to estimate bedroom size needed)
- Street address and phone numbers
- Mailing address (if PO Box or other permanent address)
- Annual income
- Source(s) of income received by household members to determine preference qualification
- Sufficient additional information to determine preference qualification
- Information regarding request for reasonable accommodation or for accessible unit
- Social Security numbers of all family members
- Race/ethnicity
- Place of birth
- Arrests and/or convictions for drug related or violent criminal activity
- Previous addresses
- Names, addresses and telephone numbers of current and previous landlords

- Emergency contact person and address
- Questions regarding previous participation in HUD programs
- Is anyone on this application subject to a lifetime registration requirement under a state sex offender program.

The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

If a preference cannot be verified, the applicant will be returned to their proper place on the waiting list and the preference removed.

Applicants on the waiting list who will be selected in the near future will be sent a letter (see chapter on Resident Selection and Assignment Plan). The letter will notify the applicant of an application interview and request that the applicant bring all documents which verify all factors to be verified. Factors to be verified will be listed in the letter.

These documents will be used for verification only if third party verification cannot be obtained.

Applicants will be required to complete a Personal Declaration Application prior to the application interview in their own handwriting, unless assistance is needed or a request for accommodation is made by a person with disabilities. MHRA staff will review the information on the Personal Declaration Application with the applicant.

Requirement to Attend Interview

MHRA utilizes the Personal Declaration Application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process.

All adult family members must attend the interview and sign the Personal Declaration Application. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship (head of household, spouse and all applicants who are eighteen (18) years of age or older).

If the head of household/spouse/cohabitant cannot attend the interview, the head of household/spouse/cohabitant may certify for the family. The head of household/spouse/cohabitant, however, will be required to attend an interview within five (5) working days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, MHRA will reject the

application.

If the applicant is not ready to proceed with the interview and verification process, the applicant may request, one (1) time, to have their application placed on hold for up to three (3) months. After this one (1) time request and they are still not ready to proceed with the application process, then their application will be withdrawn and they will have to wait six (6) months before they can reapply.

If an applicant fails to appear for their interview without prior approval of MHRA, their application will be denied unless they can provide acceptable documentation to MHRA that an emergency prevented them from calling.

Reasonable accommodation will be made for persons with disabilities who require an advocate or accessible offices. An advocate will be allowed to provide some information, but only with permission of the person with a disability.

If an application is denied due to the applicant's failure to attend the interview, the applicant will be notified in writing and offered an opportunity to request an informal hearing. (See chapter on Complaints, Grievances and Appeals)

All adult members, head of household and spouse regardless of age must sign form HUD-9886, "Release of Information," the declarations and consents related to citizenship/immigration status and any other documents required by MHRA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD-9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and releases as required by MHRA.

Information provided by the applicant will be verified, including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to local preference eligibility and rent calculation.

If MHRA determines at or after the interview that additional information or document(s) are needed, MHRA will request the document(s) or information in writing. The family will be given five (5) business days to supply the information. A notice to this effect is provided to the applicant at their initial interview with a list of documents and information required in order to complete the final eligibility determination.

If the document(s) or information is not supplied in this time period, MHRA will cancel the application.

After interview but prior to lease-up any changes to family composition and/or changes of household members' information will require applicant to complete a new Personal Declaration Application.

3 – I. F. PROCESSING APPLICATIONS

As families approach the top of the waiting list, the following items will be verified to determine

qualification for admission to MHRA's Public Housing:

- Local preference verification
- Family composition and type (elderly/non elderly)
- Annual income
- Assets and asset income
- Deductions from annual income
- Social Security numbers of all family members
- Information used in applicant screening
- Citizenship or eligible immigration status
- Criminal History Report

Third party verification is required. If third party documentation is not available the reason must be documented in the file.

3 – I. G. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

After the verification process is completed, MHRA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by MHRA, and the resident suitability determination (see chapter on Eligibility for Admission).

Because HUD can make changes in rules or regulations and family circumstances may have changed during the review process that might affect an applicant's eligibility, it is necessary to make final eligibility determination.

The household is not actually eligible for a unit offer until this final determination has been made, even though they may have been preliminarily determined eligible and may have been listed on the waiting list.

Part II: ELIGIBILITY FOR ADMISSION [24 CFR 960.Subpart B]

3 –II.A. Basic Eligibility

It is MHRA's policy to admit qualified applicants only. To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and MHRA.

- Have income at or below HUD-specified income limits.

The Quality and Work Responsibility Act of 1998 (QHWRA) authorizes housing authorities to admit families whose income does not exceed the low – income limit (80% of median area income) once MHRA has met the annual 40% targeted income requirement of extremely low-income families (families whose income does not exceed 30% of median area income).

- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for household members as required.
- Consent to the MHRA’s collection and use of family information as provided for in MHRA – provided consent forms.
- Meets or exceeds the Resident Selection and Suitability Criteria as set forth in this plan
- MHRA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or MHRA.

As authorized by MHRA’s Executive Director, MHRA may make exception to this policy due to emergency conditions including but not limited to domestic violence, severe harassment, hate crimes, and witness protection.

Timing for the Verification of Qualifying Factors

The qualifying factors of eligibility will not be verified until the family is in a position on the waiting list to be offered a Public Housing unit.

PART III: FAMILY AND HOUSEHOLD COMPOSITION

3 – III. A. Overview

Some eligibility criteria and program rules vary depending on the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and other 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 explain HUD’s eligibility rules.

The terms Family and Household have different meanings in the public housing program.

Definition of Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person,

near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant participant family. MHRA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual Orientation means homosexuality, heterosexuality, or bisexuality.

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

Each family must identify the individuals to be included in the family at the time of application, and must notify MHRA if the family's composition changes in writing within ten (10) days.

MHRA has the discretion to determine if any other group of persons qualifies as a family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes in writing within ten (10) days.

Definition of Household

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

Occupancy by Police Officers

In order to provide an increased sense of security for public housing residents MHRA may allow public housing units to be occupied by police officers.

Police officers will not be required to be income eligible to qualify for admission to MHRA's public housing program.

3 – III. B. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

Except under the following conditions, the family will inform MHRA which members of an assisted family will continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, MHRA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic

violence, dating violence, sexual assault, and stalking, see section 16-VII.D of this plan.)

- If a court determines the disposition of property between members of the assisted family, the MHRA is bound by the court's determination of which family members continue to receive assistance.

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 submit a new application with a new application date if the waiting list is open.

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

If a court determines the disposition of property between members of an applicant or resident family, MHRA will abide by the court's determination.

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 – III. C. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

The head of household is an adult member of the household who is designated by the family as the head; who is wholly or partly responsible for paying the rent; and who has the legal capacity to enter into a lease under state/local law.

A family may designate an elderly or disabled family member as head of household solely to qualify the family as an Elderly or disabled Family, provided that the person is at least partially responsible for paying the rent.

3 – III. D. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

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

as a spouse.

A cohabitant is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohabitant. A cohabitant will never qualify as a dependent.

Minors who are emancipated under state law may be designated as a cohabitant.

Other adult means a family member, other than the head, spouse, or cohabitant, 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 – III. E. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides.

Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

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 51 percent or more of the time.

When more than one applicant or assistance 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, MHRA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3 – III. F. FULL-TIME STUDENT [24 CFR 5.603]

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or 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 – III. G. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A near-elderly person is a person who is 50-61 years of age.

Elderly Family

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

3 – III. H. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12] Persons with Disabilities

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohabitant is a person with disabilities.

As discussed in Chapter 2, MHRA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or MHRA's services.

Disabled Family

A disabled family is one in which the head, spouse, or cohabitant is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

3 – III. I. 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 MHRA premises [24 CFR 966.4(f)].

The resident family may not allow visitors to stay overnight for more than 14 – days in a calendar year without the prior approval of MHRA.

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

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

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

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

3 – III. J. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

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 – III. K.

3 – III. K. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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

Absent Students

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

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

Absences Due to Incarceration

If a family member is expected to be incarcerated for more than 180 consecutive days, the person will not be considered a family member. If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in the chapter on eligibility.

Absent Head, Spouse, or Cohabitant

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

Individuals Confined for Medical Reasons

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

If there is a question about the status of a family member, MHRA will request verification

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

Return of Permanently Absent Family Members

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

3 – III. L. LIVE-IN AIDE

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

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

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [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.

A family's request for a live-in aide may be made either orally or in writing. MHRA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request— subject to MHRA verification—at each annual reexamination.

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

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

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

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

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

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

PART IV: BASIC ELIGIBILITY CRITERIA

3 – IV.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income 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 the median incomes for families of different sizes in a particular area or county.

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

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

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

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

Area median income is determined by HUD, with adjustments for smaller and larger families. 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.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

Using Income Limits for Eligibility [24 CFR 960.201]

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

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

At least 40% of the families admitted from MHRA's waiting list to the public housing program during MHRA's fiscal year shall have income that does not exceed 30 % of the median income of MHRA's jurisdiction.

MHRA shall have the discretion, at least annually, to exercise the "fungibility" provision of the Quality Housing and Work Responsibility Act of 1998, by admitting less than 40% of "extremely low income families" to Public Housing in the fiscal year, to the extent that MHRA has provided more than 75% of newly available Housing Choice Vouchers to "extremely low income families". This fungibility provision discretion by MHRA is also reflected in the Housing Choice Voucher Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40% of admissions to Public Housing for extremely low-income families by the lowest of the following amounts:

- The number of units equal to 10% of the number of newly available vouchers in the fiscal year
- The number of public housing units that are
 - Are in public housing developments located in census tracts having a poverty rate of 30% or more, and
 - Are made available for occupancy by and actually occupied in that year by families other than extremely low-income families

Fungibility Floor: Regardless of the above two (2) amounts, in a fiscal year, at least 30% of MHRA's admissions to public housing will be extremely low-income families. The fungibility floor is the number of units that cause MHRA's overall requirement for housing extremely low-income families to drop to 30% of its newly available units. Fungibility shall only be utilized if MHRA anticipates that it will fall short of its 40% goal for new admissions to public housing.

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

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the MHRA's Limited English Proficiency Plan, the notice must be in a language that is understood by the

individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohabitant, 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

Family members who declare citizenship or national status will not be required to provide additional documentation unless MHRA 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 MHRA 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 cohabitant (regardless of citizenship status), indicating their ineligible immigration status. MHRA 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 grievance hearing procedures.

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

MHRA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. When MHRA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be denied admission and offered the opportunity for a hearing.

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

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

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

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

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

- The individual must submit the declaration required under 5.508 (a) certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status and
- Certifies that the evidence needed to support claim of eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain evidence.

3 – IV.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

3 – IV.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohabitant, 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.

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

Part V: DENIAL OF ADMISSION

3 – V. A. OVERVIEW

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

In addition, HUD requires or permits MHRA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. MHRA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

This part covers the following topics:

- Required denial of admission

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

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

MHRA is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if MHRA 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 MHRA prohibit admission for a prescribed period of time after some disqualifying behavior or event, MHRA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires MHRA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the past five (5) years. MHRA will admit an otherwise-eligible family who was evicted from federally- assisted housing within the past 5 years for drug-related criminal activity, if MHRA is able to verify that the household member who engaged in the drug – related criminal activity has completed a supervised drug rehabilitation program approved by MHRA, or the person who committed the crime is no longer living in the household.
- MHRA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior during the previous six (6) months justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].
- MHRA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. In determining reasonable cause, MHRA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrest(s) will not be

used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. MHRA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

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

MHRA may deny any applicant or household member admission to the public housing program for the reasons discussed in this section

Criminal Activity [24 CFR 960.203(c)]

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

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

Drug-related criminal activity defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100]

Violent criminal activity defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100]

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)]

Criminal activity that may threaten the health or safety of MHRA staff, contractors, subcontractors, or agents.

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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight

than an arrest or an eviction. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, MHRA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, MHRA 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 MHRA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy. All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate the ability to comply with essential provisions of the lease as summarized below. All applicants must demonstrate through an assessment of current and past behavior the ability to:

- Pay rent and other charges as required by the lease in a timely manner
- Care for and avoid damaging the unit and common areas
- Use facilities, appliances and equipment in a reasonable way
- Create no health or safety hazards and to report maintenance needs in a timely manner
- Not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others
- Not to engage in criminal activity or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of other residents or staff and not to engage in drug – related criminal activity on or off the premises
- Not to have ever been convicted of manufacturing or producing methamphetamine, also known as “speed”, on or off the premises of assisted housing
- Comply with all necessary and reasonable rules and program requirements of HUD and MHRA
- Comply with local health and safety codes
- Not to contain a household member subject to the lifetime sex offender registration requirement under a state sex offender registration program

In the event of the receipt of unfavorable information with respect to an applicant, MHRA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, MHRA may also need to

consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

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

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

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

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

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

MHRA 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.

Denial of Admission for Previous Debts to This or Any Other Federal Subsidized Programs

Applicants with previous PHA debts will be permitted to execute a Payment Agreement at the time of preliminary application.

If a Payment Agreement falls into arrears while the family is on the waiting list, as defined in this policy, the family will be required to pay the balance in full. Failure to do so will result in removal from the wait list.

Circumstances for approval of a Payment Agreement after the offer is made include, but are not limited to, a determination that the family has been current on their payment agreement while they have been on the waiting list. Any remaining balance must be included on a Payment Agreement.

MHRA reserves the right, in the case of extreme hardship, to waive payment in full. Full documentation of the hardship will be required. In no case will the debt be forgiven.

Either spouse or cohabitant is responsible for the entire debt incurred as a previous PHA resident. Minor children of the head of household or spouse who had incurred the debt will not be held responsible for the parent's previous debt. Other adult family members whose income(s) was considered in calculating the rent will be responsible for their portion.

Failure to notify MHRA, in the preliminary application of any previous PHA debts will be considered fraud and may result in removal from the wait list and/or denial of admission.

MHRA maintains bad debt records for twenty (20) years for debts over \$25.00.

Denial of Admission for Drug Related and/or Other Criminal Activity

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or disturb neighbors. It is the intention of the MHRA to fully endorse and implement a policy which is designed to:

- Help create and maintain a safe and drug-free community;
- Keep program participants free from threats to their personal and family safety;
- Support parental efforts to instill values of personal responsibility and hard work;
- Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and
- Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

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

To the maximum extent possible, MHRA will involve other community and governmental entities in the promotion and enforcement of this Plan.

This Plan will be available at MHRA's site offices and copies made readily available to applicants

and residents upon request.

HUD Definitions

“Covered Person” means a resident, any member of the resident’s household, a guest or another person under the resident’s control.

"Drug-related criminal activity" is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Drug-related criminal activity means *on or off the premises not just on or near the premises*.

"Criminal activity" includes any criminal activity that threatens the health, safety or right to peaceful enjoyment of the residents’ public housing premises by other residents or employees of MHRA.

“Drug” means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

“Guest,” for purposes of this chapter, means a person temporarily staying in the unit with the consent of a resident or with the consent of another member of the household who has express or implied authority to so consent on behalf of the resident.

“Household” means the family and MHRA-approved live-in aide.

“Other person under the resident’s control,” for the purposes of the definition of “covered person,” means that the person, although not staying as a guest (as defined above) in the unit is, or was at the time of the activity in question, on the premises (as defined in this section) because of an invitation from the resident or other member of the household who has express or implied authority to so consent on behalf of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the resident’s control.

“Premises” means the building or complex or development in which the public 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.

Standard for Violation

MHRA will deny participation in the Public Housing program to applicants and terminate assistance to participants in cases where MHRA determines there is reasonable cause to believe that the person is illegally using a controlled substance or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other

residents, including cases where MHRA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse.

MHRA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous twelve (12) months or if numerous incidents occur over a number of years.

“Engaged in or engaging in” violent criminal activity means any single act within the past five (5) years or any pattern of such activity prior to such five (5) year period by applicants or participants, household members or guests which involved criminal activity that had as one of its elements the use, attempted use or threatened use of physical force against the person of another; or which did or did not result in the arrest and/or conviction of the applicant or participant, household members or guests.

Any above-referenced behavior by any household member or guest, regardless of the applicant’s or resident’s knowledge of the behavior, may be grounds for denial of assistance or eviction.

In evaluating evidence of negative past behavior, MHRA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or to the likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Pre-Denial of Admission

The intent of this policy is to avoid unnecessary denials by giving applicants an opportunity to explain certain unfavorable information, which at face value could result in denial of admission. This section excludes those instances covered by this policy that constitute an automatic and/or permanent denial.

In all cases, MHRA Intake staff will review an applicant’s information and either approve or deny the application. If the information provided raises questions as to admissibility, the Intake staff will then contact the applicant, either by phone or mail, to discuss any unfavorable information. If a letter is required it shall state the following:

- information has been obtained by MHRA that requires further clarification;
- a copy of the document(s) that contains this information will be made available as required for official or court proceedings or for the applicant or resident upon request;
- MHRA will provide an opportunity to discuss this information with the applicant prior to MHRA making a decision as to admission;
- the applicant has fourteen (14) days to respond to discuss the matter and if they do not respond within this time, their application will automatically be denied;
- the applicant will have an additional fourteen (14) days after denial to appeal the decision. However, a separate denial letter will not be sent.

Efforts will be made to reach applicants by phone prior to sending this correspondence. Applicants may provide any written or oral evidence they feel will assist in explaining the nature of the activity, the circumstances surrounding the activity and any rehabilitation or life change that has occurred since the activity. The Public Housing Intake staff will review all information. An applicant's decision to decline this pre-denial opportunity will have no effect on any further appeals s/he may choose to pursue. No portion of this provision shall waive an applicant's right to a full appeal up to and including the informal hearing phase.

In evaluating evidence of negative past behavior under this section, MHRA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or to the likelihood of favorable conduct in the future that could be supported by evidence of rehabilitation.

Should an applicant provide additional information during the pre-denial process, the decision whether to deny or approve the application will rest with MHRA Intake staff after review of all information. MHRA reserves the right to review any and all applications with the Housing Operations Director prior to making a decision to approve or deny. Should an application be denied and appealed, the Senior Asset Manager shall have the authority to review any new information and to overturn the denial prior to presentation to the Informal Hearing Officer. However, if the Senior Asset Manager upholds the denial, the applicant will retain the right to appeal through MHRA's appeal process. (see E. Reviews of Denials, this chapter).

3 –V. D. SCREENING

MHRA is responsible for the screening and selection of families to occupy public housing units. In developing its admission policies, the aim of MHRA is to attain a resident body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of MHRA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood or on the quality of life for its residents.

MHRA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of residency. Answers will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, criminal history, housing history, allowances, family composition or rent will result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease, either alone or with assistance, which they can demonstrate that they have or will have at the time of admission (24 CFR 8.3 Definition: Qualified Individual with Handicaps). The availability of assistance is subject to verification by MHRA.

Screening for Drug Abuse and Other Criminal Activity

In an effort to prevent drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or the right to peaceful enjoyment of the premises by other residents, MHRA will endeavor to screen applicants as thoroughly and fairly as possible.

If in the past MHRA initiated a lease termination, which may or may not have resulted in eviction for any reason cited under the Screening and Eviction for Drug Abuse and Other Criminal Activity Notice, for a family, as a prior resident of public housing, MHRA shall have the discretion to consider all circumstances of the case regarding the extent of participation by non-involved family members.

Initial screening will be limited to routine inquiries of the family and any other information provided to MHRA. The inquiries will be standardized and directed to all applicants by inclusion in the application form.

If as a result of the standardized inquiry, or the receipt of verifiable information, there is indication that the family or any family member is engaged in drug-related criminal or violent criminal activity, MHRA will conduct closer inquiry to determine whether the family should be denied admission.

Individuals who are participating in a supervised drug/alcohol rehabilitation program at the time of review and are not illegally using drugs while in the program or who have completed rehabilitation successfully cannot be denied based solely on illegal use of drugs. [28CFR35.131 Paragraph (a)(2)(ii)].

Individuals who have not completed a rehabilitation program but have otherwise been rehabilitated successfully may not be denied admission or participation based solely on illegal use of drugs provided they have evidence of rehabilitation. "Evidence" may include but is not limited to any combination of the following:

- letter from qualified medical, law enforcement, probationary or other qualified professional attesting to successful rehabilitation
- criminal records that show no drug-related activity since the last date of use prior to rehabilitation
- landlord reference stating there have been no drug-related incidents on the premises since the last date of use prior to rehabilitation.

In these instances, it is the responsibility of the applicant/participant to prove successful rehabilitation to the satisfaction of MHRA.

Criminal Activity Preceding Previous Five (5) Years

In evaluating evidence of negative past behavior under this section, MHRA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or to the likelihood of favorable conduct in the future that could be supported by evidence of rehabilitation.

Excluding those cases in which an applicant is automatically denied due to drug-related criminal activity, MHRA will consider admitting the applicant if:

- the person demonstrates successful participation in or completion of a credible rehabilitation program approved by MHRA, or
- the individual involved in drug-related criminal activity is no longer in the household because the person is incarcerated.

MHRA may permit eligibility for occupancy and impose conditions that the involved family member(s) does not reside in the unit. MHRA will consider evidence that the person is no longer in the household such as divorce decree, incarceration, death, copy of a new lease with the owner's telephone number and address/or other substantiating evidence.

Pattern of Criminal Activity

MHRA may deny any applicant or family member admission to public housing if law enforcement records show a pattern of criminal activity during the previous five (5) years. The following constitute a pattern of activity:

- three (3) or more incidents of similar or related activities such as theft/armed robbery; graffiti/destruction of property; criminal threatening/assault; and/or
- four (4) or more incidents of any criminal activity.

Should a pattern be depicted, MHRA will review and consider all information obtained through criminal background checks regardless of the date of any criminal activity contained therein.

Other Criminal Activity

"Other criminal activity" means a history of criminal activity involving crimes of actual or threatened violence to persons or property, or a history of other criminal acts, conduct or behavior which would adversely affect the health, safety, or welfare of other residents. For the purposes of this policy, this is construed to mean that a member of the current family has been arrested or convicted of any criminal or drug-related criminal activity within the past five (5) years.

HUD defines violent criminal activity as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member.

No family member may have engaged in or threatened abusive or violent behavior toward MHRA personnel or residents at any time.

No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program in the last five (5) years.

Evidence

MHRA must have evidence of the violation.

“Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

Preponderance of evidence is not determined by the number of witnesses, but by the greater weight of all evidence.

“Credible evidence” may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes but isn’t limited to documentation of drug raids or arrest warrants, evidence gathered by MHRA Community Police or MHRA staff members.

MHRA may pursue fact-finding efforts as needed to obtain credible evidence.

CRIMINAL BACKGROUND CHECK: Management Policy and Procedures

MHRA prohibits admission of a household member who has a criminal record which would: adversely affect the health, safety or welfare of other MHRA residents; adversely affect the physical environment of a MHRA development; threaten the health and safety of MHRA employees; or endanger the community. However, MHRA has implemented policies and procedures to assure that applicants are treated fairly in regard to any criminal activity they may have committed.

Applicability

MHRA will check criminal history from all states of residency within the last five (5) years prior to application for all applicants who are 18 years of age and older in the household. Each person must complete and sign the necessary forms for release of these records to MHRA. Records will be checked for violent, drug related and patterns of criminal activity and to determine whether any family member is subject to a lifetime sex offender registration requirement.

For states that will not furnish records to MHRA, the individual may be required to obtain their own records and submit them to MHRA.

When criminal records are unobtainable such as from foreign countries or states that have policies restricting the dissemination of such information, MHRA will accept a notarized statement from the individual indicating whether or not they have a criminal record from that state/country.

Reimbursement

MHRA will reimburse the cost of the criminal records providing the individual has completed the form for reimbursement and supplied MHRA with a paid receipt from the law enforcement

agency.

CRIMINAL BACKGROUND CHECK: Admissions

Law Enforcement Records

MHRA will check criminal history from all states of residency within the last five (5) years prior to application for all applicants who are 18 years of age and older in the household. The purpose of this check is to determine whether any member of the family has engaged in violent or drug-related criminal activity, any pattern of criminal activity and to determine whether any member of the household is subject to a lifetime sex offender registration requirement. Criminal history records from most states will cover an applicant's lifetime activity in the state regardless of length of time of residency. However, criminal activity occurring more than five (5) years ago does not guarantee denial of admission to public housing.

Verification of any past criminal activity will be completed prior to final eligibility and will include a check of conviction records.

Confidentiality of Criminal Records

MHRA will ensure that any criminal record received is maintained confidentially and not misused or improperly disseminated. Once the purpose for which records are requested is accomplished all criminal records will be destroyed.

All criminal reports, while needed by the MHRA Intake staff for screening for criminal behavior, will be housed in a locked file with access restricted to individuals responsible for such screening.

Misuse of the above information by any employee will be grounds for termination of employment. Penalties for misuse are contained in MHRA's Employee Handbook.

MHRA will document in the family's file that the family was denied admission or that the residency was terminated due to findings in the Criminal History Report.

Criminal records or any other sensitive records such as sex offender status or records of rehabilitation will be used only to screen applicants for housing or to pursue evictions. These records will not be disclosed to any person or entity (other than the applicant or resident) except for official use in the application process or court proceedings. No copies will be made except as required for official or court proceedings or for the applicant or resident upon request.

Rent Paying Habits

MHRA will complete a rental history check on all applicants. MHRA will examine records from a prior MHRA residency, and will request written references from the applicant's current landlord and former landlords for up to the past five (5) years including all residencies with other housing authorities.

Based upon these verifications, MHRA will determine if the applicant was chronically late with

rent payments, was evicted at any time during the past five (5) years for nonpayment of rent, or had other legal action initiated against him/her for housing-related debts owed. MHRA will undertake a balancing test that will consider: (1) amount of former rent; (2) loss of employment; (3) death or divorce from primary support; (4) illness or other circumstances beyond applicant's control. Any of these circumstances could be grounds for a determination of eligibility, depending on the amount of control the applicant had over the situation.

Applicants will not be considered to have a poor rent paying history if they were late paying rent because they were withholding rent due to substandard housing conditions in a manner consistent with a local ordinance; or had a poor rent paying history clearly related to an excessive rent relative to their income (using 30% of their gross income as a guide) and responsible efforts were made by the family to resolve the nonpayment problem.

The lack of a rent paying history will not disqualify a family, but a poor rent paying history may, with the exceptions noted above.

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

MHRA is responsible for the screening and selection of families to occupy public housing units. MHRA may consider all relevant information. MHRA shall rely upon sources of information which may include, but not be limited to, MHRA records, personal interviews with the applicant or resident, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department; and home visits within a six (6) mile radius of Manchester for persons who have had negative landlord reference(s) for poor housekeeping habits.

The above actions will be taken to determine whether the individual attributes, prior conduct, and behavior of the applicant family is likely to interfere with other residents in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

MHRA will complete a home visit at the current residence of applicants who have been denied due to landlord verifications returned to MHRA with unfavorable comments concerning their residency including housekeeping habits, or as deemed necessary, when information from landlords is inconsistent with other sources of information.

Applicants shall be given the opportunity to schedule a home visit within a fourteen (14) day period.

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

Where there is absolutely no rental history or where references from former landlords are unavailable, the applicant may be required to obtain two personal character references from reputable sources, who are not family members, and to meet with MHRA staff to review resident

lease obligations. When the applicant is admitted to public housing, home visits may be scheduled to ensure lease compliance.

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

- The applicant's past performance in meeting financial obligations especially rent.
- Eviction or records of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other residents or neighbors.
- Any history of criminal activity on the part of any applicant family member involving criminal acts, including drug or alcohol related criminal activity.
- Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.
- Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other tenants.
- Any history of alcohol or other substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.
- The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by MHRA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.
- The family must have not violated any family obligation or been evicted during a previous participation in any assisted housing program within five (5) years when applying for public housing assistance.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

- Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24 CFR 960.205(b)]
- Adversely affect the physical environment or financial stability of the development. [24 CFR 960.205(b)]
- Violate the terms and conditions of the lease. [24 CFR 8.3].
- Require services from MHRA staff that would alter the fundamental nature of MHRA's program. 24 CFR 8.3]

Screening Applicants Who Claim Mitigating Circumstances

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is acceptable, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into MHRA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, MHRA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. MHRA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify the need for a reasonable accommodation.

Examples of Mitigating Circumstances:

Evidence of successful rehabilitation;

Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by MHRA;

Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. MHRA will consider such circumstances in light of:

- The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
- The applicant's overall performance with respect to all the screening requirements

3 – V. E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

MHRA will use 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 MHRA 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-V.B).

In the event MHRA 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, MHRA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

MHRA will consider the following facts and circumstances prior to making its decision:

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

While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, MHRA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. MHRA may also consider:

- Any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs
- 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. MHRA 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

Should MHRA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, MHRA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, MHRA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, MHRA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)].

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 MHRA request.

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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, MHRA will determine whether the behavior is related to the disability. If so, upon the family's request, MHRA will determine whether alternative measures are appropriate as a reasonable accommodation. MHRA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3 – V. F. VIOLENCE AGAINST WOMEN ACT OF 2013 (VAWA)

This Act protects applicants/participants and family members who are victims of domestic violence, dating violence, sexual assault, or stalking from being terminated or denied housing assistance based on acts of such violence against them. These provisions apply to MHRA and owners renting to families under the Section 8 Housing Choice Voucher programs.

The law provides in part that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking engaged in by a member of an applicant's/participant's household or any guest or other person under the applicant's/participant's control, shall not be the cause for denial/termination of assistance, tenancy, or occupancy rights if the applicants/participants or an immediate member of the applicant's/participant's family is the victim or threatened victim of that abuse. Furthermore, any incident(s) of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease or other "good cause" for denial/termination of assistance, tenancy or occupancy rights of the victim of such violence.

Notification

MHRA acknowledges that a victim of domestic violence, dating violence or stalking may have an unfavorable history (e.g. a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under MHRA's policies. Therefore, if MHRA makes a determination to deny admission to an applicant family, MHRA will include in its notice of denial:

- A statement of the protection against denial provided by VAWA.
- A description of MHRA's confidentiality requirements.
- A request that an applicant wishing to claim this protection submit to MHRA documentation meeting the specifications below with her or his request for an informal hearing.

Documentation

Victim Documentation

When an applicant/participant family is facing assistance denial/termination because of the actions of an applicant/participant, household member, guest, or other person under the applicant/participant's control and a participant/applicant or immediate family member of the applicant/participant's family claims that he/she is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault, or stalking, MHRA will require the individual to submit documentation within fourteen (14) days affirming that claim. The documentation must include:

1. A HUD approved self-certification (form 5382 Certification of Domestic Violence,

Dating Violence, Sexual Assault or Stalking). The individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident(s) in question are bona fide incidences of actual or threatened abuse. The name of the perpetrator(s) may be provided only if the name of the perpetrator is safe to provide, and is known to the victim.

(OR)

2. One of the following may include:

A police or court record documenting the actual or threatened abuse, or permanent restraining order.

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; a medical professional; or another reliable, knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

If the certification or other documentation is not provided by the individual within fourteen (14) business days from receipt of HUD form 50066, the owner or MHRA would be free to evict, or terminate assistance as stated in this plan.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where MHRA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, MHRA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). MHRA must honor any court orders issued to protect the victim or to address the distribution of property.

Failure to Provide Documentation [24CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

Perpetrator Documentation

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

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

the public housing unit; or

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

Time Frame for Submitting Documentation

The applicant must submit the required documentation with her or his request for an informal hearing or must request an extension in writing at that time. If the applicant so requests, MHRA will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, MHRA determines that the family is eligible for assistance, no informal hearing will be scheduled, and MHRA will proceed with admission of the applicant family.

Confidentiality Requirements

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

3 – V. G. NOTICE OF ELIGIBILITY OR DENIAL

MHRA will notify an applicant family of its final determination of eligibility.

If MHRA uses a criminal record or sex offender registration information obtained under 24 CFR 5.903 Subpart J(f), 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 MHRA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, MHRA 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 MHRA to dispute the information within that 10-day period, MHRA 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 non-citizens are contained in Chapter 12.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Chapter 12.

Eligible and Ineligible Applicants

Information that has been verified by MHRA will be analyzed and a determination will be made with respect to:

- The eligibility of the applicant as a *family*;
- The eligibility of the applicant with respect to income limits for admission;
- The eligibility of the applicant with respect to citizenship or eligible immigration *status*;
- Preference category to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both USCIS and MHRA procedures, except for a pending MHRA hearing.

Applicants who are determined to be ineligible for admission will be promptly notified with a Notice of Denial of Admission stating the reason for the denial. MHRA shall provide applicants an opportunity to meet to discuss the information revealed. Evidence may be provided to refute the information through written explanation, credible documents or other courses of action the applicant has taken that might be considered to outweigh the information revealed. The information provided will be reviewed first by MHRA Intake staff, which may overturn the denial, then by the Housing Operations Director. If the decision to deny admission is not overturned, the applicant will be given an opportunity for an Informal Hearing (see chapter titled "Complaints, Grievances, and Appeals.")

Applicants who have requested a reasonable accommodation as a person with disabilities and who have been determined eligible, but fail to meet the Applicant Selection Criteria, will be offered an opportunity for a second meeting to have their cases examined to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the screening procedures.

MHRA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by MHRA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by MHRA, such as turnover rates and market demands as they affect bedroom sizes and development location.

Documenting Findings

An authorized representative of MHRA shall document any pertinent information received relative to the following:

- Criminal Activity - includes the activities listed in the definition of criminal activity in this chapter.
- Pattern of Violent Behavior - includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.
- Pattern of Drug Use - includes a determination by MHRA that the applicant has exhibited a pattern of illegal use of a controlled substance which might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Drug Related Criminal Activity - includes a determination by MHRA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance.
- Pattern of Alcohol Abuse - includes a determination by MHRA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.
- Initiating Threats - or behaving in a manner indicating an intent to assault employees or other residents.
- Abandonment of a Public Housing Unit - without advising MHRA officials so staff may secure the unit and protect its property from vandalism.
- Non-Payment of Rightful Obligations - including rent and/or utilities and other charges owed to MHRA, any other PHA and assisted housing programs.
- Intentionally Falsifying an Application for Leasing - including uttering or otherwise providing false information about family income and size, using an alias on the application for housing, or making any other material false statement or omission intended to mislead.
- Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior - consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility; which damage the equipment or premises in which the applicant resides; or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of residency in previous housing on the grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.

- Grossly Unsanitary or Hazardous Housekeeping - includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in halls; or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors.
- Destruction of Property in previous rentals.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects.

MHRA may waive the policies prohibiting admission in these circumstances if the person demonstrates to MHRA's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and has successfully completed a supervised drug or alcohol rehabilitation program.

Prohibited Criteria for Denial of Admission

Applicants will NOT be rejected because they:

- Have no income;
- Are not employed;
- Do not participate in a job-training program;
- Will not apply for various welfare or benefit programs;
- Have children;
- Have children born out of wedlock;
- Are on welfare;
- Are students eligible in accordance with HUD Notice PIH 2005-16

3 – V. H. DENIAL REVIEWS/HEARINGS

In order to grant due process MHRA provides the opportunity for applicants to address unfavorable information and to contest denials in all cases. In addition to the pre-denial process

described earlier in this chapter, all denied applicants have the right to appeal the decision and to provide evidence to refute the information that resulted in the denial.

Hearings will be granted to any applicant whose application was denied and who wishes to appeal the denial. The following summarizes the staff involved in the appeal process, all of which have authority to uphold or overturn a denial:

- Public Housing Intake staff: Makes initial decision to deny, may overturn denial based on additional information submitted by the applicant, may also present application to the Senior Asset Manager for consultation prior to initial decision to deny.
- Senior Asset Manager: May review application and, in conjunction with the MHRA Intake staff, render a decision to initially deny. If the Housing Operations Director does not review application prior to denial, s/he reviews all denials that are upheld by the MHRA Intake staff and are appealed. The Housing Operations Director either reviews before or after initial denial but not both.
- Informal Hearing Officer: Denials that are upheld by the MHRA Intake staff and the Housing Operations Director – regardless of time of review – may be appealed to an informal hearing officer. This is the last stage of the appeal process and the Informal Hearing Officer's decision is final.

Persons whose applications have been denied will be notified of their right to appeal the decision and what the process entails. A denied application may only go forward if the applicant requests the next step in the process. Should the denial be overturned at any point the appeal process ends.

Chapter 4
RESIDENT SELECTION AND ASSIGNMENT PLAN
(Includes Preferences and Managing the Waiting List)
[24 CFR 960.204]

INTRODUCTION

It is MHRA's policy that each applicant shall be assigned an appropriate place on a jurisdiction-wide waiting list. Applicants will be listed in sequence based upon date and time the application is received, the size and type of unit they require, and factors of preference or priority. In filling an actual or expected vacancy, MHRA will offer the dwelling unit to an applicant in the appropriate sequence, with the goal of accomplishing deconcentration of poverty and income-mixing objectives. MHRA will offer the unit until it is accepted. This chapter describes MHRA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list.

MHRA's policies will be followed consistently and will affirmatively further HUD's fair housing goals. MHRA's objective is to ensure that families are placed in the proper order on the waiting list so that the offer of a unit is not delayed to any family unnecessarily or made to any family prematurely. When appropriate units are available, families will be selected from the waiting list in their preference-determined sequence.

By maintaining an accurate waiting list, MHRA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available to fill unit vacancies in a timely manner. Based on MHRA's unit turnover and the availability of appropriately sized units, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on date and time of completion of verifications. Responsibility to provide the necessary information for the completion of the verification process, and preference-determined sequence, rests with the applicant.

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 MHRA will handle the application it receives.

Part II: Managing the Waitlist – This part presents the policies that govern how MHRA'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 MHRA will use to keep the waiting list current.

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

4-I.B. APPLYING FOR ASSISTANCE

MHRA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from MHRA's Central Office, located at 198 Hanover St., during normal business hours. Families may also request – by telephone or by mail – that an application form be sent to the family via first class mail. Applications may also be completed online at www.manchesterhousing.org.

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

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

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

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

MHRA will review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless MHRA determines the family to be ineligible. Where the family is determined to be ineligible, MHRA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

If MHRA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, MHRA will send written notification of the ineligibility determination within 10 business days of receipt of the completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

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

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

MHRA 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 MHRA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

PART II: MANAGING THE WAITLIST

4 – II. A. OVERVIEW

This section describes MHRA's policies regarding the waiting list and how it will be organized and managed. This includes policies on notifying the public on opening and closing of the waiting list, updating family information and purging the list of families no longer interested in or eligible for public housing.

MHRA will administer its waiting list as required by 24 CFR Part 5, Part 945 and Part 960, Subparts A and B. The waiting list will be maintained in accordance with the following guidelines:

- The application will be kept on file in accordance with HUD and other retention regulations
- All applicants in the pool will be maintained in order of preference by date and time of application receipt.
- All applicants must meet applicable income eligibility requirements as established by HUD
- The waiting list will be managed in a manner to comply with HUD's requirement that 40% of all new admissions have income that does not exceed 30% of the median income of MHRA jurisdiction
- Applicants under special programs are housed according to program availability and may be housed other than according to prescribed procedures

4 – II. B. ORGANIZATION OF THE WAITLIST

MHRA will maintain one single community – wide waiting list for its developments. Within the list, MHRA will designate subparts to easily identify who should be offered the next available unit. MHRA will not adopt site – based waiting lists.

MHRA will not merge the waiting lists for the Public Housing and Housing Choice Voucher programs. However, if the Housing Choice Voucher waiting list is open when the applicant is placed on the Public Housing waiting list, MHRA must offer to place the family on both lists.

MHRA's waiting list is organized in such a manner to allow MHRA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

The waiting list will contain the following information:

- Name and social security number of the head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number

- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

Opening and Closing the Waiting Lists

MHRA, at its discretion, may restrict application intake, suspend application intake, and close waiting lists in whole or in part. MHRA may open or close the list by local preference category. The decision to close the waiting list will be based on the number of applications available for a particular size and type of unit, the number of applicants who qualify for a local preference, and the ability of MHRA to house an applicant in an appropriate unit within a reasonable period of time.

When MHRA opens the waiting list, MHRA will advertise through public notice in local media outlets, minority publications and media entities, the location(s) and program(s) for which applications are being accepted. Notices shall be sent to city agencies or organizations. The notice will contain:

- The dates, times, and the location where families may apply
- The programs for which applications will be taken
- A brief description of the program(s)
- Limitations, if any (i.e. specific programs), on who may apply

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes MHRA address and telephone number, how to submit an application, information on eligibility requirements and the availability of local preferences.

Upon request from a person with disabilities, additional time will be given as an accommodation for submission of an application after the closing deadline to alleviate problems that may result from a social service organization providing inaccurate or untimely information about the closing date.

In situations where there is a shortage of qualified applicants to fill units in a timely manner, MHRA will use the date of application for Housing Choice Voucher applicants who opt to be considered for public housing while they are waiting for a Housing Choice Voucher to become available.

When Application Taking is Suspended

MHRA may suspend the acceptance of applications if there are enough local preference holders to fill anticipated openings for the next twenty-four (24) months.

The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

During the period when the waiting list is closed, MHRA will not maintain a list of individuals

who wish to be notified when the waiting list is open.

Suspension of application taking is announced in the same way as opening the waiting list.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover over the next twenty-four (24) months. MHRA will give at least seven-day public notice in the Union Leader at least seven (7) days prior to closing the list. When the period for accepting applications is over, MHRA will add the new applicants to the list by unit size, local preference priority, and date and time of application receipt.

MHRA will update the waiting list as deemed necessary by removing the names of those families who are no longer interested, no longer qualify for housing, or cannot be reached by mail or telephone. MHRA advises families of their responsibility to notify MHRA in writing, when mailing address or telephone numbers change.

Reopening the List

If the waiting list is closed and MHRA decides to open the waiting list, MHRA will publicly announce the opening in the Union Leader.

Any reopening of the list is done in accordance with the HUD requirements.

In the event that there are enough applicants on the waiting list to fill the turnover within the next twenty-four (24) months but there are not enough applicants who claim a local preference, MHRA may elect to accept applications from applicants who claim a local preference **ONLY**, or are qualified for special unit requirements, such as Single Room Occupancy Program, Family Self-Sufficiency Program, Homeless or other approved specialized programs and continue to keep the waiting list closed.

Limits on Who May Apply

When the waiting list is open, any family asking to be placed on the waiting list for MHRA's housing programs will be given the opportunity to complete a preliminary application.

When the preliminary application is received by MHRA it establishes the family's date and time of the preliminary application for placement order on the waiting list.

Multiple Families in Same Household

When families that consist of two families living together (such as a mother and father plus a daughter with her own husband or children) apply as a family unit, they will be treated as a family unit.

4 – II. C. CHANGES PRIOR TO UNIT OFFER

While the family is on the waiting list, the family must inform MHRA, within 10 business days of changes in family size or composition, preference status, or contact information, including current residence, mailing address and phone number. Changes that occur during the period between placement on the waiting list and an offer of a suitable unit may affect the family's eligibility or Total Tenant Payment. The family will be notified in writing of changes in their eligibility or level

of benefits and offered their right to an Informal Hearing.

- A. **Spilt Households**: When a family on the waiting list splits into two otherwise eligible families due to a divorces or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, MHRA will make the decision taking into consideration the following factors:
1. Which family member has applied as head of household
 2. Which family unit retains the children or any disabled or elderly members
 3. Restrictions that were in place at the time the family applied;
 4. Role of domestic violence in the split;
 5. Recommendations of social service agencies or qualified professionals, such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by MHRA.

- B. **Joint Custody of Children**: Children who are subject to joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. 51% of the time is defined as 186 days of the year, which do not have to run consecutively. When both parents are on the waiting list and both try to claim the child(ren), the two families must resolve the issue and declare which household will be allowed to claim the child(ren) as a dependent. If the two households are unable to resolve the issue, MHRA will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing, whose address is listed in the school records and/or who may be receiving benefits for the child(ren).
- C. **Change in head of household (HOH)**: The applicant may change the head of household to the application as long as the person who is to take over as HOH was listed on the original application at the date and time of the submission of the application.

4 – II. D. REMOVAL FROM WAITING LIST AND PURGING

The waiting list will be purged as needed by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

If an applicant fails to respond within thirty (30) calendar days s/he will be removed from the waiting list. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated. If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless a person with disabilities requests a reasonable accommodation for being unable to reply within the prescribed period.

Notices will be made available in accessible format upon the request of a person with disabilities. An extension to reply to the purge notification will be considered as an accommodation if requested by a person with disabilities.

MHRA allows a grace period of thirty (30) days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Applicants are notified with confirmation of MHRA's receipt of their preliminary application that they are responsible for notifying MHRA promptly in writing if they have a change of address or of any other changes affecting their application

PART III: TENANT SELECTION

4 – III. A. OVERVIEW

This section describes the preferences MHRA will use to determine how applicants will be selected from the waiting list. This section also describes how tenants will be selected for units.

4 – III. B. WAITING LIST PREFERENCES

A preference does not guarantee admission to the program. Preferences are used to establish the order of placement on the waiting list. Every applicant must meet MHRA's Resident Selection Criteria and Assignment Plan as defined in this policy.

MHRA's preference system works in combination with requirements to match the characteristics of the family to the type of unit available, including units with targeted populations, and to further deconcentration of poverty in public housing. When such matching is required or permitted by current law, MHRA will give preference to qualified families.

Families who reach the top of the waiting list will be contacted by MHRA to verify their preference and, if verified, the applicant will complete a Personal Declaration application for occupancy. Applicants must complete the Personal Declaration application for occupancy and continue through the application processing and may not retain their place on the waiting list if their verification process takes longer than other applicants or if they refuse to complete their processing when contacted by MHRA. Once their verification process is complete they will be placed in the "Pool" and retain their rank with the others that are in the pool (preference determined sequence).

Among applicants with equal preference status, the waiting list will be organized by date and time of receipt of application.

Treatment of Single Applicants

All families with children, elderly families and disabled families will have an admission preference over "other singles".

“Other Singles” denotes a one-person household in which the individual member is neither elderly, disabled, homeless nor displaced by government action. Such applicants will be placed on the waiting list in accordance with their preferences but cannot be selected for assistance before any elderly, disabled, homeless or displaced one-person family regardless of local preferences.

4 – III. C. LOCAL PREFERENCES

MHRA uses the following local preference(s):

1. The Veteran Preference (which includes certain law enforcement officers and firefighters/veterans/families) shall be given to a household member who currently serves in the Armed Forces of the United States or has been discharged with an honorable discharge or a discharge based on a service- related injury, illness or disability.

The Service Preference applies to a law enforcement officer or a firefighter if the officer/firefighter suffered 100% disability due to a service-related injury.

The Veteran and Service Preferences shall be extended to a spouse with dependent child(ren) of the serviceman killed in a war/conflict, or to a spouse with dependent child(ren) of a law enforcement officer or a firefighter killed in service to the community. The spouse with dependent child(ren) must be eligible as a family at the time of application and must have been dependent on the serviceman/law enforcement officer/firefighter at the time of the death.

MHRA will require U.S. government documents that indicate that the applicant qualifies. Municipal documents or certification from city/state for law enforcement officers or firefighters will be required.

2. The Residency Preference applies to applicant families living, working or who have been notified that they are to work in Manchester. This preference also applies to applicants who are aged 62 or older, or who are a person with disability and who have a son, daughter or parent living in Manchester. This preference also applies to applicants who at one-time lived-in Manchester and can provide documentation of same.
3. The Displaced Family Preference shall be given to families who are currently residing in a unit that is slated for acquisition through a government action.
4. The Homeless Due to Disaster Preference shall be given to a family not currently receiving assistance, if the homelessness is a direct result of a disaster (not intentionally caused by the family, and does not result in a conviction) which renders the family’s residence uninhabitable. This preference shall give qualifying families first priority over all other families; however, all families must also meet MHRA’s Resident Selection

Criteria and Assignment Plan as defined in this policy. Families must be living in temporary housing in order to qualify for this preference.

“Disaster” shall include but not be limited to fire, explosion, natural flood, earthquake or other natural disaster or condemnation by the City or other authorized entity and must render the residence uninhabitable. In the event repairs are feasible but cannot or will not be made within ninety (90) days or if information regarding time to repair cannot be obtained through the landlord, the unit will be considered uninhabitable.

MHRA staff will work with other agencies providing emergency assistance in order to meet with these families, assist them in completing applications and expedite the internal review process of all applications. MHRA acknowledges the strong possibility that relevant documents may be damaged or destroyed in the disaster; staff will proceed accordingly with the verification process.

This preference only applies to those families who have resided in residences within the physical boundaries of Manchester, New Hampshire that have been destroyed by disaster as defined above.

5. The Displaced Due to Federally Declared Disasters Preference shall be given to families who are Section 8 Housing Choice Voucher holders or Public Housing residents in other jurisdiction who, due to a federally declared disaster, have been displaced from their housing unit and have relocated, or wish to relocate, to the Manchester, New Hampshire area. This preference shall give qualifying families first priority over other waitlist placeholders.

After local preferences are applied, an applicant’s position on the waiting list is then determined according to date and time of application.

4 – III. D. LOCAL PREFERENCE QUALIFICATION

At the time of determination of eligibility, an applicant’s entitlement to one or more local preferences may be made on the basis of that applicant’s certification that they qualify for preference(s). At this time the preference(s) will not be verified. When the family is selected from the waiting list for the final determination of eligibility, the preference(s) will be verified.

While the family is on the waiting list, the family must inform MHRA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4 – III. E. PREFERENCE DENIAL

If MHRA denies a preference, the applicant will be placed on the waiting list and ranked without benefit of the local preference based on original date of application. MHRA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review.

The applicant will have five (5) working days to request the meeting in writing. If the preference denial is upheld as a result of the meeting, or if the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

Any applicant who falsifies documents or makes false statements in order to qualify for any preference will be removed from the waiting list with notification to the family.

4 – III. F. ORDER OF SELECTION

The order of selection is based on MHRA's system for weighing preferences except as necessary to meet income-targeting requirements.

MHRA has selected the following system of local preferences:

- All local preferences will be treated equally.
- Local preferences will be aggregated with a point system

Among Applicants with Equal Preference Status

Among applicants with equal preference status, the waiting list will be organized by date and time of application.

Under the singles rule, elderly and disabled families and displaced singles of up to but not more than two persons will always be selected before other singles without regard to preference status.

Local Preferences

Local preferences will be used to select among applicants on the waiting list. Public hearing with opportunity for public comment will be held before MHRA adopts any additional local preference.

The hearing will be publicized using the same guidelines as those for opening and closing the waiting list.

4 – III. G. FACTORS OTHER THAN PREFERENCES THAT AFFECT SELECTION OF APPLICANTS

Before applying its preference system, MHRA will first match the characteristics of the available

unit to the applicants available on the waiting lists. Factors such as unit size, accessible features, deconcentration or income mixing, income targeting, or units in housing designated for the elderly limit the admission of families to those characteristics that match the characteristics and features of the vacant unit available.

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

Any admission mandated by court order related to desegregation or Fair Housing and Equal Opportunity will take precedence over the preference system. Other admissions required by court order will also take precedence over the preference system. If permitted by the court order, MHRA may offer the family a Housing Choice Voucher.

No family with income higher than Very Low Income shall, after July 1, 1984, be approved to admission to the Gallen Highrise (NH 1-15) Amp 015 and to Rimmon and Gates (NH 1-16) Amp 016 which initial occupancy began on or after October 1, 1981 except with the prior approval of HUD.

4 – III. H. INCOME TARGETING

MHRA will monitor its admissions to ensure that at least 40% of families admitted to Public Housing in each fiscal year shall have incomes that do not exceed 30% of area median income of MHRA's jurisdiction.

MHRA shall have the discretion, at least annually, to exercise the "fungibility" provision of the Quality Housing and Work Responsibility Act of 1998 by admitting less than 40% of "extremely low income families" to Public Housing in a fiscal year, to the extent that MHRA has provided more than 75% of newly available Housing Choice Vouchers to "extremely low income families." This fungibility provision discretion by MHRA is also reflected in MHRA's Housing Choice Voucher Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40% of admissions to Public Housing for extremely low-income families by the lowest of the following amounts:

- The number of units equal to 10% of the number of newly available vouchers in the fiscal year; or
- The number of Public Housing units that
 1. Are in Public Housing developments located in census tracts having a poverty rate of 30% or more, and
 2. Are made available for occupancy by and actually occupied in that year by, families other than extremely low-income families.

The Fungibility Floor: Regardless of the above two (2) amounts, in a fiscal year, at least 30% of MHRA's admissions to public housing will be to extremely low-income families. The fungibility floor is the number of units that cause MHRA's overall requirement for housing extremely low-

income families to drop to 30% of its newly available units. Fungibility shall only be utilized if MHRA anticipates that it will fall short of its 40% goal for new admissions to Public Housing.

Low Income Family Admissions

Once MHRA has met the 40% targeted income requirement for new admissions of extremely low-income families, MHRA will fill the remainder of its new admission units with eligible families whose incomes do not exceed 80% of the HUD approved area median income.

Procedure to Be Used When There Are Insufficient Applicants on the List

When MHRA anticipates that there are insufficient elderly or near-elderly families on the waiting list for these units MHRA will notify local senior service centers to recruit elderly families for the waiting list.

When there are no elderly applicants from other sites interested in the elderly-designated housing development, after conducting outreach, near-elderly applicants who are 50-62 years of age can be admitted to the elderly-designated development.

When there are no near-elderly applicants from other sites interested in the elderly-designated development, after conducting outreach, single applicants who are below 50 years of age can be admitted to the elderly-designated development.

4 – III. I. MIXED POPULATION UNITS

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.

In accordance with the 1992 Housing Act, elderly families whose head/spouse or sole member is at least 62 years of age and disabled families whose head, cohabitant or spouse or sole member is a person with disabilities will receive equal preference to such units.

No limit will be established on the number of elderly or disabled families who may occupy a mixed population property. All other MHRA preferences will be applied.

4 – III. J. GENERAL OCCUPANCY UNITS

General occupancy units are designed to house all populations of eligible families. In accordance with MHRA's occupancy standards, eligible families' not needing units designed with special features or units designed for special populations will be admitted to MHRA's general occupancy units.

MHRA will use its local preference system as stated in this chapter for admission of eligible families to its general occupancy units.

4 – III. K. DECONCENTRATION OF POVERTY AND INCOME MIXING

MHRA will determine levels of income concentration for families residing in all general occupancy developments (“covered developments”) in the following manner:

- 1) Annually determine the total average income of all families residing in all covered developments.
- 2) Annually determine the average income of all families in each covered development. The Authority may choose to employ unit size adjustment factors in determining the average income of all families residing in each covered development as provided for at 24 CFR Part 903.2(c)(1)(ii), Final Rule, and described in more detail in Notice PIH 2001-4(HA), II. Instructions, Section A, Component 4.
- 3) Determine the Established Income Range, defined as 85 percent to 115 percent of the total average for all covered developments.
- 4) Determine which, if any, covered developments have an average income higher or lower than the Established Income Range. Covered developments that have an average income that is within the Established Income Range shall be considered to have met deconcentration standards. Covered developments that have an average income that is outside the Established Income Range shall be considered to be in violation of deconcentration standards.

Explanation

Should there be covered developments that are outside the Established Income Range, the Authority may explain or justify the income profiles for these developments as being consistent with and furthering both the goals of deconcentration and the local goals and strategies contained in the Annual Plan. Elements of explanations or justifications that may satisfy these requirements may include, but are not limited to the following:

- 1) The covered development or developments are subject to consent decrees or other resident selection and admission plans mandated by court action;
- 2) The covered development or developments are part of MHRA's programs, strategies or activities specifically authorized by statute, such as mixed-income or mixed-finance developments, homeownership programs, self-sufficiency strategies, or other strategies designed to deconcentrate poverty, promote income mixing in public housing, or increase the incomes of public housing residents, or the income mix is otherwise subject to individual review and approval by HUD;
- 3) The covered development's or developments' size, location and/or configuration promote income deconcentration, such as scattered site or small developments;
- 4) The income characteristics of the covered development or developments are explained by other circumstances.

Remedy

In the event one or more covered developments fall outside the Established Income Range – either higher or lower – and these results cannot be explained or justified in accordance with the

previous section, the following procedures will be followed:

- 1) Determine which families on the waiting list have incomes higher or lower than the average for all covered developments.
- 2) When a unit becomes available for occupancy in a covered development with higher incomes the unit shall be offered to the first family on the waiting list that has an income lower than the average for all covered developments. When a unit becomes available for occupancy in a covered development with lower incomes the unit shall be offered to the first family on the waiting list that has an income higher than the average for all covered developments.

Families that are higher on the waiting list but do not meet the appropriate income guideline may be skipped over as required. If the waiting list does not contain a family in the income category to whom the unit is to be offered, the Authority will offer the unit to a family based on other eligibility requirements.

- 3) As with any offer of a vacant unit in public housing, families may refuse up to two units. Should a third unit be offered and refused, the family may fall to the bottom of the waiting list but will not be removed solely for refusing units under the deconcentration policy.
- 4) No family shall be forced to vacate a unit in order for deconcentration standards to be met. However, if the Authority is aware of a unit that is to be vacated, efforts may be made to locate a family in a required income level prior to the unit actually becoming vacant.
- 5) All efforts to maintain deconcentration standards shall be properly recorded.

4 –III. L. CHANGES PRIOR TO UNIT OFFER

Changes that occur during the period between placement on the waiting list and an offer of a suitable unit may affect the family's eligibility or Total Tenant Payment. The family will be notified in writing of changes in their eligibility or level of benefits and offered their right to an Informal Hearing when applicable (See chapter on Complaints, Grievances, and Appeals).

Chapter 5

OCCUPANCY STANDARDS

INTRODUCTION

The Occupancy Guidelines are established by MHRA to ensure that units are occupied by families of the appropriate size. These guidelines maintain the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. This Chapter explains the Occupancy Guidelines used to determine minimum and maximum unit sizes for various sized families when they are selected from the waiting list, or when a family's size changes, or when a family requests an exception to the Occupancy Guidelines.

Policies in this chapter are described in two parts:

Part I: Occupancy Standards

This part contains MHRA's standards for determining the appropriate unit size for families of different sizes, compositions and types

Part II: Unit Offers

This part contains MHRA'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 MHRA 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 underutilization or from excessive wear and tear due to overcrowding. This section describes the methodology and factors that MHRA will use to determine the size unit for which a family qualifies. It also includes the minimum and maximum number of household members for each unit size. This part also describes the circumstances under which an exception to the occupancy standards may be approved.

5 – I. B. DETERMINING UNIT SIZE

MHRA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom. MHRA's Occupancy Guideline standards for determining unit size shall be applied in a manner consistent with Fair Housing requirements. For occupancy standards, an adult is a person 18 years or older.

Generally, MHRA will assign one bedroom to two people within the following guidelines:

- Adults of different generations, persons of the opposite sex (other than spouses), and unrelated adults will not be required to share a bedroom. Consideration will also be given for medical reasons.
- Separate bedrooms should be allocated for persons of the opposite sex, other than adults who have a spousal relationship and children under age seven (7).
- Foster children will be included in determining unit size only if they will be in the unit for more than twelve (12) months.
- Live-in aides will generally be provided a separate bedroom. No additional bedrooms are provided for the aide's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.
- Single person families shall be allocated zero/one bedroom.

The living room will not be used as a bedroom except for purposes of reasonable accommodation

or at the request of the family.

GUIDELINES FOR DETERMINING BEDROOM SIZE

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

5 – I. C. EXCEPTIONS TO OCCUPANCY STANDARDS

MHRA will grant exceptions from the guidelines in cases where it is the family's request or MHRA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances, and there is a vacant unit available.

If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:

- Applicants may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, as long as the unit is not overcrowded according to City Code. The family must agree not to request a transfer until they have occupied the unit for two (2) years.
- At the family's request a smaller unit may be offered, if in doing so the family has an opportunity to be housed earlier or live in a preferred development. No family will be allowed to exceed City Code requirements for occupancy.\
- MHRA may offer a family a unit that is larger than required by MHRA's occupancy standards, if the waiting list is short of families large enough to fill the vacancy or if MHRA determines that a larger unit is required to achieve deconcentrations as required by QHWRA.
- In all cases, where the family requests an exception to the general occupancy standards, MHRA will evaluate the relationship and ages of all family members and the overall size of the unit.
- The family may request to be placed on a larger bedroom size waiting list than indicated by MHRA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size unit, and must be verified by MHRA before the family is placed on

the larger bedroom size list. MHRA will consider these requests:

Person with Disabilities

MHRA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified and meets requirements in the "Service and Accommodations Policy" section of Chapter 1.

Other Circumstances

Circumstances may dictate a larger size unit than the occupancy standards permit when persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Requests for a larger bedroom unit due to medical equipment must be verified by a reliable, knowledgeable professional, such as a doctor or other qualified health professional.

Requests based on health-related reasons must be verified by a doctor or other qualified health professional.

In such cases where a new member is added who is not a relative or who was not born, married, or legally adopted into the family, and the addition will affect the bedroom size required by the family, according to MHRA occupancy standards, MHRA will not approve the addition. MHRA in making determinations under this paragraph will consider medical hardship or other extenuating circumstances.

All members of the family residing in the unit must be approved by MHRA. The family must obtain approval for any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform MHRA within ten (10) days.

To avoid vacancies, MHRA may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease.

PART II: UNIT OFFERS

5 – II. A. OVERVIEW

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

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

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

5 – II. B. PLAN FOR UNIT OFFERS

MHRA's plan for selection of applicants and assignment of dwelling units assures equal opportunity and non-discrimination on grounds of age, disability, race, color, sex, religion, marital status, familial status, sexual orientation or national origin.

MHRA will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of development. Based on the distribution of vacancies, the applicant will be offered a unit in the location with the highest number of vacancies. If the offer is rejected, the applicant will be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location.

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

MHRA 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. C. ACCESSIBLE UNITS

MHRA has units designed for persons with mobility, sight and hearing impairments. These units were designed and constructed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other modifications.

Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the units.

No non-mobility-impaired families will be offered these units until all eligible mobility-impaired applicants have been offered the units.

Accessible units will be offered and accepted by non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit within thirty (30) days, at their own expense, when either a current resident or an applicant needs the features of the unit and there is another unit available for the resident.

Before offering a vacant accessible unit to a non-disabled applicant, MHRA will offer such units:

1. First, to a current occupant of another unit of the same development, or other public housing developments under MHRA's control, who has a disability that requires the special features of the vacant unit.
2. 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/adaptable unit to a non-disabled applicant, MHRA will require the applicant to agree to move to an available non-accessible unit within thirty (30) days, at their own expense, when either a current resident or an applicant needs the features of the unit and there is another unit available for the resident. This requirement is a provision of the lease agreement. See "Leasing" Chapter 9.

5 – II. D. TIME LIMIT FOR ACCEPTANCE OF UNIT

Applicants must accept a unit offer within one (1) business day of the date the offer is made. Offers are usually made over the telephone and are documented in the applicant's file. If MHRA is unable to contact an applicant by telephone, MHRA will send a letter and the applicant must respond within five (5) business days or will be removed from the waitlist. This applicant would be eligible for an informal grievance hearing.

Applicants Unable to Take Occupancy

If an applicant is willing to accept the unit offered, but is unable to take occupancy at the time of the offer for "*good cause*," the applicant will not be removed or placed at the bottom of the waiting list.

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

Inaccessibility to source of employment or children's day care so that an adult household member must quit a job, drop out of an educational institution or a job-training program;

The family demonstrates to MHRA's satisfaction that accepting the offer will result in a situation where a family member's life, health or safety will be placed in jeopardy. The family must offer specific and compelling documentation such as restraining orders, other

court orders, or risk assessments related to witness protection from a law enforcement agency. The reasons offered must be specific to the family. Refusals due to the location of the unit alone are not considered to be good cause.

A qualified, knowledgeable, health professional verifies the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member.
The unit is inappropriate for the applicant's disabilities.

Applicants with Changes in Family Size or Status

Changes in family composition, status, or income between the time of the interview and the offer of a unit will be processed. If a new adult family member is requested to be added to the family composition, the adult to be added needs to complete their own intake personal declaration form. MHRA shall not lease a unit to a family whose occupancy will overcrowd or underutilize the unit except to avoid vacancies. MHRA may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease. (See chapter 5, Occupancy Standards).

The family will take the appropriate place on the waiting list according to the date they first applied.

Tarrytown Road Development

Applicants for residency in this development will be selected from among eligible applicants for dwellings of given sizes and within such ranges of rent as may be established from time to time to insure the financial solvency and stability of the housing development and in compliance with the HoDAG Grant and Owner/Grantee Agreements.

5 – II. E. REFUSAL OF OFFER

If the unit offered is inappropriate for the applicant's disabilities, the family will retain their position on the waiting list and the offer will not be counted as a refusal.

If the unit offered is refused for other reasons, MHRA will follow the applicable policy as listed in the "Plan for Unit Offers" section and the "Applicant Status After Final Offer" section.

If the unit to be offered does not include electricity and the applicant is unable to have the electric serves transferred in their name, the unit offer will be counted as a refusal.

An exception to considering a unit as a refusal is permitted under a local or federal governmental decree.

5 – II. F. APPLICANT STATUS AFTER FINAL UNIT OFFER

An applicant is entitled to reject one unit offer without affecting his/her place on the waiting list. A second unit offer shall constitute a “final” unit offer. When an applicant rejects the final unit offer MHRA will:

1. Remove the applicant’s name from the waiting list.

Removal from the waiting list means the applicant must wait six (6) months before reapplying for the Public Housing Program.

5 – II. G. FAMILY MOVES

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

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If an unusual situation occurs which is not currently covered in this policy, the case should be taken to the manager and approved by the Senior Asset Manager, who will make determination after review of the situation, the individual circumstances, and the verification provided.

See chapter 11 on Re-certifications for changes in unit size for families.

Chapter 6

INCOME AND RENT DETERMINATIONS

(24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C)

INTRODUCTION

A family's annual income is used to determine their income eligibility for assistance and is also used to calculate the amount of the family's rent payment. MHRA will use the policies and methods described in this chapter to ensure that only income – eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and MHRA policies related to these topics in three parts as described below. Should HUD regulations change, regulatory changes will supercede these policies.

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require MHRA to subtract from annual income any of five mandatory deductions for which a family qualifies.
- Part III: Calculating Rent. Sections S - V describe 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, 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 twelve (12) month period following admission or annual reexamination date; and
 - (3) Which are not specifically excluded in 24 CFR 5.609 (c).
 - (4) Annual income also means amounts derived during the twelve (12) month period from assets to which any member of the family has access.

Sections 6 – IB and 6 – IC 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 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 (c)(2)).
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. This includes those absent from the unit because they are serving in the Armed Forces.

Generally an individual who is or is expected to be absent from the assisted unit for one hundred eighty (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 one hundred eighty (180) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Full-Time Students

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

Court-Ordered Absences

If a member of the family is subject to a court order that restricts the member from the home, MHRA will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds one hundred eighty (180) days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in Chapter 2, “Eligibility for Admission”.

Absences Due to Placement in Foster Care

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

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

Absences Due to Incarceration

If a family member is expected to be incarcerated for more than 180 consecutive days, the person will not be considered a family member. If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in the chapter on eligibility.

Joint Custody of Children

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time.

When more than one applicant or assistance 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, MHRA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

The approval of a caretaker is at MHRA's discretion and subject to MHRA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving assistance, MHRA will take the following actions:

- (1) 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.
- (2) 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 must notify MHRA and will be treated as a visitor for ninety (90) days. After the ninety (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 MHRA will extend the caretaker's status as an eligible visitor.
- (3) 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. All information which affects the family's continued eligibility for the program will be verified in accordance with the verification procedures and guidelines described in this Policy.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6 – I. C. ANTICIPATING ANNUAL INCOME

MHRA is required to count all income "anticipated to be received from a source outside the family during the twelve (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

MHRA generally will use current circumstances to determine anticipated income for the coming twelve (12) month period. HUD authorizes MHRA to use other than current circumstances to anticipate income when:

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

(24 CFR 5.609 (d)).

MHRA is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows MHRA to use tenant – provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where MHRA does not determine it is necessary to obtain additional third – party data.

When EIV is obtained and the family does not dispute the EIV employer date, MHRA will use current tenant – provided documents to project annual income. When the tenant – provided documents are pay stubs, MHRA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days. MHRA will require one full month of paystubs when a family member has started new employment. If a family member has been employed with the same employer for over one year, two paystubs will be sufficient.

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

If EIV or other UIV date is not available

If the family disputes the accuracy of the EIV employer data, and/or

If MHRA determines additional information is needed.

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

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

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case MHRA would calculate annual income as follows:

$(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

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

6 – I. D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation. 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 (24 CFR 5.609 (b)(1)).

For persons who regularly receive bonuses or commissions, MHRA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one (1) year history is available, MHRA will use the prior year amounts. In either case the family may provide, and MHRA 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, MHRA 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)).

6 – I. E. BUSINESS INCOME [24 CFR 5.609 (B)2]

Annual income includes “the new 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.” To determine business expenses that may be deducted from gross income, MHRA will use current applicable Internal Revenue Service (IRS) rules, or current Schedule C or Income Tax Forms, 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 MHRA 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 MHRA to deduct from gross income the expenditures for 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 MHRA 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 MHRA 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 the business get started, MHRA 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 Business

If a business is co-owned with someone outside the family, the family must document the share of 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. F. 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.

Period Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family (24 CFR 5.609 (b)(4) and (b)(3)).
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum (24 CFR 5.609(b)(4)).

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income (CFR 5.609 (b)(4)). Additionally, only deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

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

Treatment of Overpayment Deductions from Social Security Benefits

MHRA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in withholding or deduction from his or her benefit amount until the overpayment is paid in full. Regardless of the amount withheld or the length of the withholding period, MHRA must use the reduced benefit amount after deducting only the amount of the overpayment withheld from the gross benefit amount [Notice PIH 2012 – 10].

6 – I. G. 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-H and the discussion of lump-sum receipts in Section 6 – I. F).

6 – I. H. 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)

MHRA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. 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, MHRA must include in annual income “imputed” welfare income. MHRA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

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 procedures related to grievance hearings based upon MHRA’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. I. PERIODIC AND DETERMINABLE ALLOWANCES (24 CFR 5.609(b)(7))

Annual income includes periodic and determinable allowance, 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

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

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

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

MHRA must count as income regular monetary and non-monetary 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.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by MHRA. For contributions that may vary from month to month (e.g., utility payments), MHRA will include an average amount based upon past history.

6 – I. J. INCOME NOT COUNTED IN ANNUAL INCOME

Types of Earned Income Not Counted in Annual Income

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

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

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 eighteen (18) years is not included in annual income. (See Chapter 2, "Eligibility for Admission" for a definition of "foster children")

Certain Earned Income of Full-Time Students [24 CFR 5.609(c)(11)]

Earnings in excess of \$480 for each full-time student eighteen (18) years old or older (except for the head, spouse, or co-head) are not counted. To be considered "full-time" a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of a Live-in Aide(24 CFR 5.609(c)(5)

Income earned by a live-in aide, as defined in 24 CFR 5.403, is not included in annual income. See Chapter 2, "Eligibility for Admission" 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).
- Awards under the Federal Work-Study Program (20 U.S.C. 1087uu).
- 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 MHRA, 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 MHRA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Programs [24 CFR 5.609 (c)(8)(v)]

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 a 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.

MHRA 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 occupations skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" (expired Notice PIH 98-2, p.3).

MHRA 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, MHRA 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 MHRA's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]

Amounts received under training programs funded in whole or in part by HUD 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.

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 E below.

Periodic Payments Excluded from Annual Income

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

MHRA will exclude payments for the care of foster children and foster adults only if the care is provided through an official agreement with a local welfare agency.

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home (24 CFR 5.609(c)(16)).
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) (24 CFR 5.609(c)(17)).
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q), (24 CFR 5.609(c)(17)).
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)), (24 CFR 5.609(c)(17)). *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payment payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see Section 6-J.) (24 CFR 5.609(b)(4)).

6 – I. K. 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)).

MHRA Policy

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

- Amounts received by participants in other publicly assisted programs which were 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 Volunteer under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(g), 5058).
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e).
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)).

- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931)).
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04).
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408).
- (i) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f)).
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y).
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U
- (n) .S.C. 9858q).
- (o) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32 (j)).
- (p) Payments by the Indian Claims Commission to the Confederates Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433).
- (q) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
- (r) 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).

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

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

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

Flat Rents and Earned Income Disallowance

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.

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 five hundred (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 (6) 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 \$500.00.

Calculation of the Disallowance

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

While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Residents qualifying prior to May 9, 2016 will have the disallowance calculated under the "Original Calculation Method" described below, which requires a maximum lifetime disallowance period of up to 48 consecutive months. Residents qualifying on or after May 9, 2016 will be subject to the "Revised Calculation Method," which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Calculation Method

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.

Initial Twelve (12) Month Exclusion

During the initial twelve (12) month exclusion period, the full amount [one hundred percent (100%)] of any increase in income attributable to new employment or increased earnings is excluded.

Second Twelve (12) Month Exclusion and Phase-In

During the second twelve (12) month exclusion period, the exclusion is reduced to half (50%) of any increase in income attributable to employment or increased earnings.

Lifetime Limitation

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

Applicability to Child Care Expense Deductions

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions. [24 CFR 5.603(b)]

Tracing the Earned Income Exclusion.

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent. Such documentation will include:

- * Date the increase in earned income was reported by the family
- * Name of the family member whose earned income increased
- * Reason (new employment, participation in job training program, within six (6) months after receiving TANF) for the increase in earned income
- * Amount of the increase in earned income (amount to be excluded)
- * Date the increase in income is first excluded from annual income
- * Date(s) earned income ended and resumed during the initial cumulative twelve (12) month period of exclusion (if any)
- * Date the family member has received a total of twelve (12) months of the initial exclusion
- * Date the twelve (12) month phase-in period began
- * Date(s) earned income ended and resumed during the second cumulative twelve (12) month period (phase-in) of exclusion (if any)
- * Date the family member has received a total of twelve (12) months of the phase-in exclusion
- * Ending date of the maximum twenty four (24) month (two (2) year) disallowance period (twenty four (24) months from the date of the initial earned income disallowance)

Individual Savings Account (24 CFR 960.255(d))

MHRA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID. The rules pertaining to ISAs do not apply to this public housing program.

6 – I. M. 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 MHRA 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, MHRA 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

General Policies

Income from Assets

MHRA 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 PHAs 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 twelve (12) months; or (3) MHRA 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, MHRA 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 MHRA 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 MHRA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (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. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

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). (For 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. F.).

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

When net family assets are \$5,000 or less, MHRA 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, MHRA 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 established passbook savings rate, which is .06%. This rate is set by HUD.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for MHRA 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 rent 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 twelve (12) month period) from assets to which any member of the family has access."

If an asset is owned by more than one (1) person and any family member has unrestricted access to the asset, MHRA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one (1) person, including a family member, but the family member does not have unrestricted access to the asset, MHRA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MHRA 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 MHRA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two (2) years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

MHRA may set a threshold below which assets disposed of for less than fair market value will be counted.

MHRA 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 (2) years exceeds the gross amount received for the assets by more than \$5,000.

When the two (2) year period expires, the income assigned to the disposed asset(s) also expires. If the two (2) year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

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

Separation or Divorce

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

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. MHRA may verify the value of the assets disposed of if other information available to MHRA 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 the checking account, MHRA will use the average monthly balance for the last six (6) months.

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

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

Investment Accounts Such as Stocks, Bonds, Savings 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, MHRA 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), MHRA 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.

In determining the equity, MHRA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

MHRA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, MHRA will use the basic loan balance information to deduct from market value in the equity calculation.

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. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 6 – I. E.
- Interest in Indian Trust lands (24 CFR 5.603(b)).
- Real property and capital assets that are part of an active business or farming operation.

MHRA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of the real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012 – 3]

For the purposes of calculating expenses to convert to cash for real property, if the expense is not known, MHRA will use ten percent of the market value of the home.

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 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 MHRA 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. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate (24 CFR 5.603(b)). (Periodic payments are covered in Section 6 – I. F. 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, MHRA must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

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, 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. F.) 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.

In calculating income from assets, individual retirement accounts, Keogh, and similar retirement savings accounts are counted as assets even though withdrawal would result in penalty, unless benefits are being received through periodic payments. When there are any remaining amounts in these accounts and periodic payments are received, MHRA will not count any remaining amounts in the account as an asset.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, MHRA will use the family's estimate of the value. MHRA may obtain an appraisal if there is reason to believe that the family's estimate is off by \$50.00 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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. 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.

Part II: ADJUSTED INCOME

6 – II. A. INTRODUCTION

Overview

HUD regulations require MHRA to deduct from annual income any of five (5) 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 (MHRA) 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 (3%) 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 eighteen (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, MHRA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), MHRA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHRA 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. MHRA 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 family whose head, spouse, co-head, or sole member is 62 years of age or older, and a “disabled family” is a family whose head, spouse, co-head or sole member is a person with disabilities (24 CFR 5.403).

6 – II. D. MEDICAL EXPENSES DEDUCTION (24 CFR 5.611(a)(3)(i))

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) 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.

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 be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses	
Services of medical professionals	Substance abuse treatment program
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin.	Cost and continuing care of necessary service animals.
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)

Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent that they are not reimbursed by insurance or some other source.

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 sixty-two (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, MHRA 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 (25 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 (3%) 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 member(s) enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, MHRA 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 member(s) 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 MHRA 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.

Eligible Disability Expenses

Examples of auxiliary apparatus include, but are not limited to “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,” but only if these items are directly related to permitting the disabled person or other family member to work.

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 person 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, MHRA 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 on 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 resident family (23 CFR 5.603(b)). However, expenses paid to a relative who is not a member of the resident 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.

MHRA determines the reasonableness of the expenses based on typical cost of care or apparatus in the locality. To establish typical costs, MHRA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and MHRA will consider, the family's justification for costs that exceed typical cost 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 sixty-two (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, MHRA 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 a tenant family's household. However, child care expenses for foster children that are living in the assisted family's household are included when determining 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, MHRA 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 MHRA.

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.

MHRA 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.

When the child care expense being claimed is to enable a family member to work, only one (1) family member's income will be considered for a given period of time. When more than one family member works during a given period, MHRA 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. MHRA 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.

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

6 – II. G. PERMISSIVE DEDUCTIONS

MHRA 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 to the family or directly to the utility company by MHRA.

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:

- Thirty (30) percent of the family's monthly adjusted income (adjusted income as defined in Part II)
- Ten (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 of \$50

MHRA 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.

Optional Changes to Income Based Rents (24 CFR 960.253(c)(2))

MHRA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c) (2) and (d)]

MHRA chooses not to use ceiling rents.

Utility reimbursement (24 CFR 960.253(c)(3))

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits MHRA to pay the reimbursement to the family or directly to the utility provider. MHRA will make utility reimbursements to the family on a monthly basis.

6 – III. B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT (24 CFR 5.630)

Overview

MHRA has established a minimum rent of \$50.00, but will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of documented 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 MHRA 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 a 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:

- (a) Implementation of assistance, if approved, or

- (b) 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).

Implementation of Hardship Exemption

Determination of Hardship

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

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

MHRA defines temporary hardship as a hardship expected to last ninety (90) days or less. Long term hardship is defined as a hardship expected to last more than ninety (90) days.

MHRA may not evict the family for nonpayment of minimum rent during the ninety (90) day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The following example demonstrates the effect of the minimum rent exemption.

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

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. MHRA will make the determination of hardship within thirty (30) calendar days.

No Financial Hardship

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

For procedures pertaining to grievance hearing requests based upon MHRA's denial of a hardship exemption, see Chapter 13, "Complaints, Grievances and Appeals".

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

Temporary Hardship

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

The MHRA will enter into a repayment agreement in accordance with the MHRA's Repayment Agreement Policy. See Chapter 15

Long-Term Hardship

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

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 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.

The objective of MHRA 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.

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit.

Costs for telephone, cable/satellite TV, and Internet services are not considered utilities.

Utility allowance amounts may vary by the rates in effect, size and type of unit, climatic location and setting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts may also vary by residential demographic characteristics affecting home energy usage.

Residents whose utilities are included in the rent, and who choose to install an air conditioning unit, will be charged an additional surcharge for additional electric usage.

Reasonable Accommodation (24 CFR 965.508)

On request from a family that includes a disabled or elderly person, MHRA 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.

Residents with disabilities will not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

Utility Allowance Revisions

MHRA must review its schedule of utility allowances each year. Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6 – III. D. PRORATED RENT FOR MIXED FAMILIES (24 CFR 5.520)

HUD regulations prohibit assistance to ineligible family members. A “mixed family” is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MHRA will prorate the assistance provided to a mixed family. MHRA 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, MHRA will:

1. Subtract the TTP from a flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
2. Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
3. Multiply the member maximum subsidy by the number of eligible family members.
4. Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
5. Subtract the utility allowance from the unit from the prorated TTP. This is prorated rent for the mixed family.
6. When the mixed families TTP is greater than the applicable flat rent use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

PLEASE NOTE: Revised public housing flat rents will be applied to a mixed families rent calculation at the first annual reexamination after the revision is adopted.

6 – III. E. FLAT RENTS AND FAMILY CHOICE IN RENTS (24 CFR 960.253)

Flat Rents (24 CFR 960.253 (b))

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

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent would be equivalent to the unsubsidized amount any property owner could charge and lease the unit for promptly after preparation for

occupancy. Flat rents must be set at no less than 80 percent of the applicable Fair Market Rent (FMR).

To calculate a flat rent, MHRA will consider the following for each property:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities of the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by MHRA
- Utilities provided by MHRA

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 MHRA 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.

Review of Flat Rents

MHRA must ensure that flat rents continue to mirror market rent values (24 CFR 960.253(b)).

MHRA will review flat rents annually. Resulting changes, up or down, in flat rents 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 remaining on flat rent at the current (most recently adjusted) flat rent for their unit.

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

Once each year, MHRA must offer families the choice between a flat rent and an income-based rent. The family will not be offered this choice more than once a year. MHRA must document that flat rents were offered to families under the methods used to determine flat rents for MHRA.

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

MHRA 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.

MHRA must provide sufficient information for families to make an informed choice. This information must include MHRA'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, MHRA 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.

For families who choose flat rent, MHRA will conduct a reexamination of income at least once every three years unless the family specifically requests a reexamination of income sooner. MHRA must conduct annual reexaminations of family composition, community service, self-sufficiency, and other criteria related to continued occupancy (25 CFR 960.257(a)).

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 MHRA determines that a financial hardship exists, MHRA must immediately allow the family to switch from flat rent to income-based rent.

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

MHRA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

Flat Rents and Earned Income Disallowance

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 exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment is subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Chapter 7 VERIFICATION

[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

MHRA 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 residents must cooperate with the verification process as a condition of receiving assistance.

MHRA will not pass on the cost of verification to the family.

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

Sections A. through F. describe the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (G. through N.), income and assets (O. through W.), and mandatory deductions (X. through ZZ). 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 MHRA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7 – I.A. FAMILY CONSENT TO RELEASE OF INFORMATION[24 CFR 960.259(a)(1)]

The family must supply any information that MHRA or HUD determines is necessary to the administration of the program and must consent to MHRA verification of that information.

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 MHRA 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, MHRA will deny admission to applicants and terminate the lease of residents. The family may request an informal hearing in accordance with MHRA's grievance procedures.

7 – I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires MHRA to use the most reliable form of verification that is available and to document the reasons when MHRA uses a lesser form of verification

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) Using HUD's Enterprise Income Verification (EIV) system (Not available for income verification of new 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 source; 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 definition techniques listed on page 7 – 28.

Requirements for Acceptable Documents

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

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

Print-outs from web pages are considered original documents.

The MHRA 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 MHRA and must be signed in the presence of an MHRA representative.

File Documentation

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

7 – I.C. UP-FRONT INCOME VERIFICATION (UIV)

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

MHRA will inform all applicants and residents of its use of HUD's Enterprise Income Verification (EIV) System during the admission and reexamination process.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of the UIV data, no adverse action can be taken until MHRA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse action through MHRA's informal review/hearing processes.

Use of HUD's Enterprise Income Verification (EIV) System

MHRA must use HUD's EIV system in its entirety as a third – party source to verify tenant employment and income information during mandatory reexaminations or recertifications of

family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. HUD's EIV system contains data showing earned income, unemployment benefits, Social Security benefits and Supplemental Security Income (SSI) benefits for resident families. HUD requires MHRA to use the EIV system. The following policies apply to use of HUD's EIV system.

Income Reports

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

MHRA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the EIV data, income reports may be used to meet the regulatory requirement for third-party verification.

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

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When MHRA determines through income reports and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 16, "Program Integrity."

EIV Identity Verification

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

Upfront Income Verification Using Non – HUD Systems

In addition to the mandatory use of the EIV system, MHRA will utilize other upfront verifications when available. If the MHRA determines that there is an administrative burden or cost for use of

these systems, MHRA will use third – party verification.

MHRA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process: HUD’s EIV System, CCC Verify and Verify Direct.

Income Discrepancy Reports (IDRs)

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

MHRA will generate IDRs at least semiannually. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, MHRA will begin with the largest discrepancies.

When MHRA determines that a resident appearing on the IDR has not concealed or underreported income, the resident’s name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

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

When MHRA determines through IDR review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 16, “Program Administration.”

EIV Identity Verification

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

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

MHRA will identify residents whose identity verification has failed as part of the annual reexamination process.

MHRA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When MHRA determines that discrepancies exist as a result of MHRA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Enterprise Income Verification (EIV)/Upfront Income Verification (UIV) Policy and Procedures

Policy

The HUD EIV (Enterprise Income Verification)/UIV (upfront income verification) system will be used as MHRA's preferred method of verifying income of Public Housing and Section 8 Housing Choice Voucher program participants. Standard third-party verification will be used when necessary to verify income should EIV/UIV not be available or up to date. EIV/UIV information is to be considered confidential and may only be utilized for the intended purpose of verifying income for continued eligibility. The EIV/UIV data is subject to the provisions of the Federal Privacy Act (5 U.S.C. § 552, As Amended by Public Law No. 104-231, 110 Stat. 3048), The Freedom of Information Act (5 U.S.C. § 552, As Amended by Public Law No. 104-231, 110 Stat. 3048), and related amendments.

Privacy Act Requirements

Whenever MHRA requests information about a tenant, MHRA will ensure the following:

1. The data is only used for verification of resident/applicant income to determine:
 - a. A resident's eligibility for participation in a rental assistance program
 - b. The level of assistance that they are entitled to receive.
2. Data is not disclosed in any way that would violate the privacy of the individuals represented in the system.
3. The resident will be notified of the following:
 - a. HUD or MHRA's authorization and purpose for collecting the information
 - b. The uses that may be made of the data collected
 - c. The consequences to the individual for failing to provide the information
4. On request, the resident will be provided with access to records pertaining to them and given an opportunity to correct or challenge the contents of the records.

Penalties Associated with the Privacy Act

A HUD or MHRA employee can be found guilty of a misdemeanor or a felony if that employee, knowingly and willfully:

1. Discloses resident records to an unauthorized party.
2. Maintains a system of records without publishing a public notice.
3. Fraudulently represents himself/herself to obtain another individual's record.

Authorized Users

1. EIV/UIV users shall be authorized by the Executive Director on a need-to-know basis. Person not employed by MHRA shall not be authorized, and only those whose job duties specifically relate to EIV/UIV shall be granted access to the systems and related documents.
2. Only the following types of authorized users shall be allowed access to the EIV/UIV system by the Executive Director or his/her designee:
 - a. Employees whose job duties include the determination of rental payment charges
 - b. Employees whose job duties include securing data obtained under EIV/UIV.
 - c. Employees whose job duties include retrieving EIV/UIV data.
 - d. Employees whose job duties include determination of rental payment charges for internal quality control purposes.
3. The Executive Director or his/her designee will provide each user a User Access form, and the user shall apply for a User ID and password as applicable. MHRA's Information System Policy contains provisions prohibiting sharing of USER ID and Password data between users and is therefore hereby incorporated into this document by reference.

Staff Responsibilities

Executive Director:

The Executive Director shall appoint an Administrator/Coordinator and a Security Officer whose responsibilities are defined herein.

Administrator/Coordinator:

- a. The Administrator/Coordinator shall provide each authorized user a HUD/PHA Access Authorization Form (Form UIV-1b) and the Rules of Behavior and User Agreement (Form UIV-3) form and the user will apply for a User ID and Password. Authorized users must safeguard and insure the confidentiality of User Codes and Passwords.
- b. The Administrator/Coordinator will maintain a log of all authorized users, which shall be updated on a quarterly or more frequent basis.
- c. The Administrator/Coordinator will be responsible for monitoring EIV/UIV system utilization reports.

Security Officer:

The Security Officer shall be responsible for insuring that all authorized users are utilizing and safeguarding the EIV/UIV information. This includes but is not limited to:

- a. Conducting staff training and/or performing reviews of the EIV/UIV security procedures on a regular basis but not less than annually and maintaining a log of all personnel who attended.
- b. Distributing all user guides and security procedures to personnel using EIV/UIV system's data.
- c. Recording and reporting improper disclosure in accordance with the improper disclosure procedure.
- d. Ensuring that locks/combinations are reset regularly, including whenever an employee who had access is no longer employed by MHRA.
- e. Insuring confidentiality of information displayed on monitors/CRTs.
- f. Insuring confidentiality of printed EIV/UIV reports.
- g. Monitoring file storage areas.
- h. Monitoring the disposal of EIV/UIV information.

Certified Users:

All EIV/UIV users (MHRA employees only) are authorized by the Executive Director or his/her designee and shall have access on a need-to-know basis. Once the need-to-know status does not exist the authorization will be immediately terminated.

Disclosure

1. At move-in and thereafter at each recertification, MHRA will disclose to the prospective resident or housed resident its intent to make use of the EIV/UIV system. This may be accomplished in the tenant briefing or with a written handout and will include the following:
 - a. An explanation of the EIV/UIV procedure.
 - b. How income discrepancies are identified, their effect on rent calculations, and the penalties for committing fraud.
 - c. An explanation of how discrepancies are resolved.
 - d. What action(s) MHRA may take after determining that income has been unreported or underreported.
2. All resident files shall contain a properly completed, current HUD-9886 Form or equivalent.
3. All EIV/UIV data will be kept in a secure environment.
4. EIV/UIV data will be disposed of by professional document destruction contractor.

Security

EIV/UIV data will be safeguarded at all times:

1. Monitors/CRTs

EIV/UIV information displayed on monitors and/or CRTs will be safeguarded by:

 - a. Ensuring that data displays are only active when the information is being utilized and only when no unauthorized persons are within viewing distance.

- b. When exiting the office, even for short periods, employees will either:
 - i. Screen protect/blank the screen; or
 - ii. Close and lock the office.
- 2. Printed Reports:

Employees will ensure that all EIV/UIV information in printed format has:

 - a. Been immediately removed from printer trays, especially if the printer used is in an unsecured area
 - b. Not been left unattended at any time.
 - c. Not been left in viewing distance of unauthorized personnel or visitors.
 - d. When not in use, been properly filed in a secure filing cabinet or located in a designated locked secure area.
- 3. Filing:
 - a. The Security Officer will ensure that locking storage file cabinets and file locations are approved for EIV/UIV information.
 - b. Only staff members who have been previously authorized by the Executive Director may be given keys and/or access to the data. The Security Officer or designee will maintain a log of users receiving keys to controlled areas.
 - c. EIV reports may be filed:
 - i. In a consolidated “EIV” file by month, or
 - ii. Filed with the resident file.
 - Note: In either case, the file cabinet must be lockable and located behind a lockable door.
- 4. Discussing EIV/UIV information:
 - a. EIV/UIV information may only be discussed with others on a “need-to-know” basis. (Ex.: HUD staff or auditors performing an audit have a “need-to-know.” Another employee not involved in any decision affecting the resident does not have a “need-to-know” and discussing or divulging EIV/UIV information would be a security violation.)
 - b. EIV/UIV information is protected at the individual level. Therefore, specific information pertaining to one family member cannot be discussed in the presence of other family members or other individuals who do not have a “need-to-know.”
- 5. Logs:

The Security Officer shall maintain a log of which documents were destroyed and the date and time of destruction. The EIV/UIV data may be maintained in the resident file and destroyed at the time a resident file is destroyed in accordance with applicable MHRA policies.

Discrepancies

MHRA requires that all household income be reported by the family as specified in the Admissions and Continued Occupancy Policy (ACOP), lease, and the Section 8 Housing Choice Voucher Administrative Plan. These documents are incorporated herein by reference.

When the EIV/UIV information is substantially different (\$200 per month or greater) from the resident reported and/or third party reported income, the following procedure will be followed.

1. In any case where staff has relied solely on EIV/UIV data to document the discrepant income, staff shall submit a third-party verification form to the income source.
2. Staff shall review historical data for prior patterns of employment, benefit payments, and/or other income source histories.
3. Staff shall discuss, verbally or in writing, the discrepancy with the resident and the resident shall be given the opportunity to resolve the discrepancy.
 - i. Although the tenant shall be given the opportunity to resolve the discrepancy, the final authority shall be either third-party verification or EIV/UIV data, whichever is accurate, unless the resident can provide documentation that one or both parties' data is incorrect.
 - ii. If the resident is able to produce sufficient documentation of incorrect third party and/or EIV/UIV data, staff shall contact the proper personnel in charge of this data for resolution.

Adverse Actions

If MHRA finds, after a review of all information, that the resident has failed to fully disclose all family income, MHRA will meet with the head of household as soon as possible. MHRA will:

1. Offer the resident the opportunity to repay all retroactive rent changes within 30 days from the date of the meeting , or
2. Offer the resident a repayment agreement with the following conditions:
 - a. The agreement will be for no longer than the amount of time the income was unreported, but in no case more than 24 months.
 - b. The agreement will specify the date and amount due each month
 - c. Should the agreement be breached for any reason, other than an emergency situation approved by the Executive Director, the remainder of the unpaid amount will be treated as indicated below
3. If the family is unable or unwilling to repay, MHRA will take the following action(s):

Seek immediate eviction (and) if the amount owed is:

At Least	But Less Then	Action
\$1.00	\$5,000.00	Offer a chance to repay, enter a repayment agreement, or turn over to collection agency and/or Inspector General.
\$5,001.00		Turn over to Inspector General.

Reporting Improper Disclosures:

- Report any evidence of unauthorized access or known security breaches to the Executive Director or his/her designee.
- Document all improper disclosures in writing.
- Report all security violations regardless of whether the security violation was intentional or unintentional.

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

Unless third-party verification is not required as described below, HUD requires MHRA to make at least two (2) unsuccessful attempts to obtain third-party verification before using another form of verification. HUD's current verification hierarchy defines two types of written third – party verification. The more preferable form, “written third – party verification”, consists of an original document generated by the third – party source, which may be received directly from the third – party source or provided to MHRA by the family. If written third – party verification is not available, MHRA must attempt to obtain a “written third – party verification form.” This is a standardized form used to collect information from a third party.

MHRA will diligently seek third – party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third – party verification is not received in a timely fashion.

Written third – party verification documents must be original and authentic and may be supplied by the family or received from a third – party source. The must be dated within sixty days of the effective recertification date.

Examples of acceptable tenant – provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notices or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. MHRA is required to obtain, at minimum, one full month of current and consecutive pay stubs.

MHRA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. When MHRA determines that documents provided by the applicant or resident are unusable, MHRA will make a minimum of two (2) attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, MHRA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used and the facts provided.

MHRA may mail, fax, e-mail or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. MHRA will send a written request for verification to each required source within five (5) business days of securing a family's authorization for the release of the information and give the source ten (10) business days to respond in writing. If a response has not been received by the eleventh (11th) business day, MHRA will request third-party oral verification.

When any source responds verbally to the initial written request for verification, MHRA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, MHRA will wait no more than five (5) business days for the information to be provided. If the information is not provided by the sixth (6th) business day, MHRA will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, MHRA will use the information from documents on a provisional basis. If MHRA 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, MHRA will conduct an interim reexamination to adjust the figures used for reexamination, only if the amount changes the gross rent more than \$20.00.

When Third-Party Verification is Not Required

Third – party verification may not be available in all situations. HUD has acknowledged that it may not be cost – effective or reasonable to obtain third – party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

MHRA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

For families with net assets totaling \$5,000 or less, MHRA will accept the family's self – certification of the value of the family's assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

MHRA will use third – party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets and every three years thereafter.

Certain Income, Asset and Expense Sources

MHRA 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. For example, MHRA will rely upon review of documents when MHRA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

MHRA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the family has original documents that provide the necessary information.

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

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

Using Review of Documents as Verification

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

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

7 – I.E. 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 MHRA.

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

PART II: VERIFYING FAMILY INFORMATION

7 – II.A. VERIFICATION OF LEGAL IDENTITY

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) U.S. passport	Certificate of birth Adoption papers Custody agreement

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

Legal identity will be verified on an as needed basis.

7 – II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed a SSN.

MHRA will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA – issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state

MHRA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90 – day extension will be granted if the MHRA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a residents request to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. MHRA may not add the new household member until such documentation is provided.

When a resident makes a request to a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if MHRA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period MHRA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously-assisted occupancy. MHRA will verify each disclosed SSN by obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers. MHRA will make a copy of the original documentation submitted and retain it in the applicant or resident file. 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.

If an official record of birth cannot be provided, MHRA will require the family to submit other documents that support the reported age of the family member (i.e., driver's license if birth year is recorded).

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 Chapter 2, "Eligibility for Admission".

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

MHRA will require the family to document the marriage with a marriage certificate or other documentation to verify the couple is married.

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

Separation or Divorce

MHRA 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 (i.e., documentation of another address at which the person resides such as a lease or utility bill). MHRA will require 2 different forms of documentation.

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

MHRA requires families to provide information about the student status of all students who are eighteen (18) years of age or older. This information will be verified only if:

1. The family claims full-time student status for an adult other than the head, spouse or co-head; or
2. The family claims a child care deduction to enable a family member to further his or her education.

7 – II. F. DOCUMENTATION OF DISABILITY

MHRA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. MHRA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. MHRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MHRA receives a verification document that provides such information, MHRA will not place this information in the resident's file. Under no circumstances will MHRA request a resident's medical record(s).

Regulations do not, however, prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

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

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

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third – party verification that the family member meets the HUD definition of disability. 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. This chapter discusses HUD and MHRA 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 eighteen (18) or older and by a guardian for minors.

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

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

Eligible Immigrants

Documents Required

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

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age and the date on which the family began receiving HUD-funded assistance.

MHRA Verification

For family members age sixty-two (62) or older who claim to be eligible immigrants, proof of age is required in the manner described in Section I. No further verification of eligible immigration status is required.

For family members under the age of sixty-two (62) who claim to be eligible immigrants, MHRA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). MHRA will follow all USCIS protocols for verification of eligible immigration status.

7 – II. H. VERIFICATION OF PREFERENCE STATUS

MHRA must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

Veteran Preference (Includes Certain Police and Firefighter Veterans/Families):

1. The Veteran Preference (which includes certain law enforcement officers and firefighters/veterans/families) shall be given to a household member who currently serves in the Armed Forces of the United States or has been discharged with an honorable discharge or a discharge based on a service- related injury, illness or disability.

The Service Preference applies to a law enforcement officer or a firefighter if the officer/firefighter suffered 100% disability due to a service-related injury.

The Veteran and Service Preferences shall be extended to a spouse with dependent child(ren) of the serviceman killed in a war/conflict, or to a spouse with dependent child(ren) of a law enforcement officer or a firefighter killed in service to the community. The spouse with dependent child(ren) must be eligible as a family at the time of application and must have been dependent on the serviceman/law enforcement officer/firefighter at the time of the death.

MHRA will require U.S. government documents that indicate that the applicant qualifies. Municipal documents or certification from city/state for law enforcement officers or firefighters will be required.

Residency Preference:

This preference is available to the applicant family living in the City of Manchester; applicants who are sixty two (62)/disabled with a son, daughter or parent living in Manchester or who at one time lived in Manchester and can provide documentation of same; applicants who are working or have been notified that they are hired to work in Manchester.

In order to verify that an applicant is a resident, MHRA will require a minimum of two (2) of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing.

For families who have been hired to work in the jurisdiction of MHRA, a statement from the employer will be required.

Displaced by Government Action Preference:

MHRA will require a statement from the governmental agency requesting the displacement.

Homeless Due to Disaster Preference:

MHRA will require a statement from the fire department, landlord, City of Manchester and/or the owner or operator of the temporary housing of which they are residing.

PART III: VERIFICATION INCOME AND ASSETS

Chapter 6 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. Any asset under \$5,000 will be verified at intake and then self-certified by the tenant for the following three (3) years. On the third year the asset will be verified through a third – party source. The following sections provide MHRA policies that supplement the general verification procedures specified earlier in this chapter.

7 – III. A. EARNED INCOME

Wages:

For wages other than tips, the family must provide originals of one month's worth of current and consecutive paystubs.

Tips:

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

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.

At any reexamination MHRA 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, MHRA 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 MHRA 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

To verify the SS/SSI benefits of applicants, MHRA will request a current (dated within the last sixty (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), MHRA 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 MHRA.

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

7 – 111. D. ALIMONY OR CHILD SUPPORT

The way MHRA 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, MHRA will request a record of payments for the past twelve (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 the amount and type of support and payment schedules.
- Copy of the latest check and/or payment stubs.
- Family's self-certification of the 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 (2) years. MHRA needs to verify only those certifications that warrant documentation.

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

- (1) MHRA does not already have a reasonable estimation of its value from previously collected information, or
- (2) 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 MHRA verified this amount. Now the person reports that she has given this \$10,000 to her son. MHRA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
 Example 2: A family member has disposed of its ¼ 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, MHRA will verify the value of this asset.

7 – III. F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

- (1) A current executed lease for the property that shows the rental amount or certification from the current tenant.
- (2) 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, MHRA 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

MHRA will only verify retirement accounts in cases where the resident has access to withdraw the funds without having to repay those funds.

MHRA will accept written third – party documents supplied by the family as evidence of the status of retirement accounts. The type of original document that will be accepted will depend upon the family member’s retirement status.

Before retirement, MHRA 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 six (6) months from the effective date of the examination.

Upon retirement, MHRA 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, MHRA will accept an original document from the entity holding the account dated no earlier than twelve (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.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, MHRA is **not** required to follow the verification hierarchy, document why third – party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013 – 04]

MHRA may accept a family's signed application or reexamination form as a self – certification of fully excluded income. Additional documentation is not required. However, if there is any doubt that a source of income qualifies for the full exclusion, MHRA has the option of requiring additional verification.

For partially excluded income, MHRA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full – time student, or income excluded under the earned income disallowance).

7 – III. I. ZERO ANNUAL INCOME STATUS

MHRA will require families claiming to have zero income to have their files reviewed monthly. MHRA will require the family to provide documentation monthly of how all expenses are paid for. In addition, MHRA will check UIV sources and/or request information from third – party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income. This will be done monthly as part of the review process.

PART IV: VERIFYING MANDATORY DEDUCTIONS

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

The dependent and elderly/disabled family deductions require only that MHRA 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 M for a full discussion of this deduction. MHRA will verify that:

- Any person under the age of eighteen (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 Chapter 2 for a definition of elderly and disabled families and Chapter 6, Section N for a discussion of the deduction. MHRA will verify that the head, spouse or co-head is sixty-two (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 O. The amount of the deduction will be verified following the standard verification procedures described in this chapter.

Amount of Expense

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

Medical expenses will be verified through:

- Written third –party documents provided by the family, such as pharmacy printouts or receipts.
- MHRA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MHRA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third – party verification forms, if the family is unable to provide acceptable documentation.
- If third – party documentation review is not possible, written family certification as to the cost anticipated to be incurred during the upcoming 12 months.

In addition, MHRA 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 sixty-two (62) or a person with disabilities. MHRA will verify that the family meets the definition of an elderly or disabled family provided in Chapter 3 and as described in Section X of this chapter.

Qualified Expenses

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

Unreimbursed Expenses

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

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third – party, the third – party must certify that the expense are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, MHRA 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 P. The amount of the deduction will be verified following the standard verification procedures described in this chapter.

Amount of Expense

Attendant Care

MHRA will accept written third – party documents provided by the family.

If family – provided documents are not available, MHRA will provide a third – party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third – party documents provided by the family, such as receipts or cancelled checks
- Third – party verification signed by the provider, if the family provided documents are not available.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve (12) months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third – party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third – party verification form signed by the provided, if family – provided documents are not available.
- If third – party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, MHRA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in Section L above).
- The expense permits a family member or members to work (as described in Chapter 6).
- The expense is not reimbursed from another source (as described in Chapter 6).

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. MHRA will verify that the expense is incurred for a person with disabilities (see Section L).

Family Member(s) Permitted to Work

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

MHRA 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).

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

Unreimbursed Expenses

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

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 other 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 other source.

7 – IV. D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described earlier in this chapter. In addition, MHRA must verify that:

- The child is eligible for care (12 or younger)
- The costs claimed are not reimbursed
- The costs enable a family member to work, actively seek work, or further their education
- 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 thirteen (13). MHRA will verify that the child being cared for (including foster children) is under the age of thirteen (13).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source. 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 other source. The family will be required to certify that the child care expenses are not paid by, or reimbursed to the family, from any other source.

Pursuing an Eligible Activity

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

In the event third-party verification is not available, MHRA will provide the family with a form on which the family member must record job search efforts. MHRA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education: MHRA will request third – party documentation to verify that the person is permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment: MHRA will seek third – party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family but must fall within certain guidelines as discussed in Chapter 6. MHRA will verify that the type of child care selected by the family is allowable as described in Chapter 6.

MHRA will verify that the fees paid to the child care provider cover only child care costs (i.e., no housekeeping services or personal services) and are paid only for the care of an eligible child (i.e., prorate costs if some of the care is provided for ineligible family members). MHRA 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.

Reasonable Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with MHRA'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, MHRA will request additional documentation as required to support a determination that the higher cost is appropriate.

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 MHRA 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 that such tenant-provided documents are written third party verification since these documents originated from a third-party source. MHRA 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, 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.

MHRA 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, MHRA 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 HUD'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.).

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.**”

Third party verification requirements. In accordance with 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third-party verification was not available: (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.

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

Public housing leases are the contractual basis of the legal relationship between MHRA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require MHRA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, MHRA may conduct additional inspections in accordance with MHRA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and MHRA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes MHRA'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 MHRA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

MHRA adopted a smoke-free policy, which is attached as Exhibit 8-1.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as MHRA's policies.

8-I.B. LEASE ORIENTATION

After unit acceptance but prior to occupancy, a MHRA representative will conduct a lease orientation with the family. The head of household, spouse and all adult members are required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- A copy of the grievance procedure
- A copy of the schedule of maintenance charges
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of

actions a family must avoid and the penalties for program abuse

- A copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- Other information as applicable

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders
- Interim reporting requirements
- Unit Inspections
- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policy

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and MHRA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one MHRA unit to another.

The lease must state the composition of the household as approved by MHRA (family members and any MHRA-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 will be required to sign the public housing lease prior to admission.

Lease signers must be persons legally eligible to execute contracts. If no member of the household is qualified to sign a lease, a legal guardian may co-sign the lease, subject to MHRA approval.

An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and MHRA will retain a copy in the resident’s file.

A new lease is executed if there is a change in household composition.

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 PHA assistance. The

live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and MHRA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

MHRA may modify its lease from time to time. However, MHRA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. MHRA must also consider any comments before formally adopting a 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)].

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

When MHRA proposes to modify or revise schedules of special charges or rules and regulations, MHRA will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Additions to the Lease

Requests for the addition of a new member of the household must be approved by MHRA, prior to the actual move-in by the proposed new member.

Following receipt of a family's request for approval, MHRA will conduct a pre-admission screening, including the Criminal History Report, of the proposed new member. Only new members approved by MHRA will be added to the household.

1. Factors determining household additions subject to screening:

- Resident plans to marry or cohabitate;
- Resident is awarded custody of a child;
- Resident desires to add a new family member to the lease, employ a live-in aide, or take in a foster child(ren) over the age of 16;
- A unit is occupied by a remaining family member(s) under age eighteen (18) (not an emancipated minor) and an adult who was not a member of the original household requests permission to take over as the head of household.

2. Factors determining household additions that are not subject to screening:

- Children born to a family member or whom a family member legally adopts are exempt from the pre-screening process.
- Children who are added through a kinship care arrangement are exempt from the pre-screening process.

3. Pre-approval, and verification of documentation provided by child placement agency is required for families desiring to take in a foster child(ren).

4. In such cases where the addition of a new member who has not been born, married, or legally adopted into the family will affect the bedroom size required by the family according to MHRA occupancy standards, MHRA will not approve the addition.

5. MHRA may deny adding a family consisting of more than one member to the lease. Such applicants will be encouraged to apply to the waiting list.

6. Residents who fail to notify MHRA of additions to the household, or who permit persons to join the household without undergoing screening, are in violation of the lease. Such persons are considered to be unauthorized occupants by MHRA, and the entire household will be subject to eviction [24 CFR 966.4(f)(2 and 3)].

7. Family members aged eighteen (18) and over who move from the dwelling unit to establish new households shall be removed from the lease. The resident must notify MHRA of the move-out within ten (10) days of its occurrence.

These individuals may not be readmitted to the unit and must apply as a new applicant for placement on the waiting list for their own unit.

MHRA, in making determinations under this paragraph, will consider medical hardship or other extenuating circumstances.

8. The resident family may not allow visitors to stay overnight more than fourteen (14) days in a calendar year without prior approval of MHRA.

The family must request MHRA approval prior to visitors arriving who will be in the unit in excess of fourteen (14) days in a calendar year. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Visitors who remain beyond the approved period shall be considered as unauthorized persons, and their presence constitutes a breach of the lease.

If an individual other than a leaseholder is representing to an outside agency that they are residing in the lessee's unit, the person will be considered an unauthorized member of the household.

9. Roomers and lodgers are not permitted to occupy a dwelling unit, nor are they permitted to move in with any family occupying a dwelling unit.

Residents are not permitted to allow a former resident of MHRA who has been evicted to occupy the unit for any period of time.

Residents must advise MHRA when they will be absent from the unit for more than fourteen (14) days and provide a means for MHRA to contact the resident in the event of an emergency. Failure to advise MHRA of the extended absence is grounds for termination of the lease.

Leasing Units with Accessible or Adaptable features

Before offering a vacant accessible unit to a non-disabled applicant, MHRA will offer such units:

First, to a current occupant of another unit of the same development, or other public housing developments under MHRA's control, who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

MHRA will require a non-disabled resident to agree to move to an available non-accessible unit within thirty (30) days at their own expense, when either a current resident or an applicant needs the features of the unit and there is another unit available for the resident. This requirement is a provision of the lease agreement.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

New residents must pay a security deposit to MHRA at the time of admission. MHRA may allow security deposits to be paid in no more than four (4) payments.

The amount of the security deposit is one month's total tenant Payment, but not less than \$100.00.

MHRA will hold the security deposit for the period the family occupies the unit. MHRA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, MHRA will refund to the resident the amount of the security deposit (including interest earned on 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.

MHRA will provide the resident (or person designated by the former resident in the event of the former resident's incapacitation or death) with a written list of any charges against the security deposit. If the resident disagrees with the amount charged, MHRA will provide a meeting to discuss the charges.

The resident must leave the dwelling unit, appliances and grounds in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to MHRA. All keys to the unit must be returned to the Management Office upon vacating the unit.

If the resident transfers to another unit, MHRA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the “old” unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by MHRA 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 specifies the initial amount of the tenant rent at the beginning of the initial lease term, and MHRA will provide a 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 the MHRA-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 resident fails to make payment by the fifth of the month, a Demand for Rent and Eviction Notice is served.

If a family’s tenant rent changes, MHRA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

The MHRA lease provides for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

If rent and other charges due and payable under the lease are not paid by the fifth day of the month and a Demand for Rent and Eviction Notice for failure to pay rent is served and a fee of \$15.00 will be charged.

If the resident fails to make payment by the expiration date of the Demand for Rent and Eviction Notice, the resident must surrender the premises or MHRA will file suit against the resident.

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 identifies the specific grounds for the action and informs the family of their right for a hearing under MHRA’s grievance procedures. MHRA 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)].

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 \$20.00 will be charged to the family.

Utility Charges

Residents responsible for direct payment of utilities must abide by and all regulations of the specific utility company.

Failure to maintain utility service during residency is a lease violation and is grounds for termination of tenancy.

Non-payment for excess utility charge payments to MHRA is a violation of the lease and is grounds for termination of tenancy.

Maintenance and Damage Charges

When applicable, families will be charged for maintenance and/or damages according to the MHRA's sundry schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed directly to the resident and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable fourteen days after the billing date. If the family requests a grievance hearing within the required timeframe, MHRA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

Schedule of Special Charges

Schedules of special charges for services, repairs, utilities and rules and regulations which are required to be incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the Management Offices and will be provided to all applicants and residents upon request.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD regulations require MHRA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, MHRA may require additional inspections, in accordance with MHRA Policy. This part contains MHRA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease requires MHRA 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 MHRA and the tenant, will be provided to the tenant and retained in the resident file.

Under limited circumstances, any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

At the time a resident gives a notice a pre-moveout inspection will be scheduled. The resident will be asked with a day and time MHRA staff may enter the unit to determine what repairs will be needed. Also, at the time of notice, the resident will be asked if they give permission to enter the unit to complete any necessary repairs before the time of moveout.

MHRA staff will inspect the unit at the time a resident vacates the unit and encourages residents to participate in the inspection, unless the tenant vacates without notice to MHRA. MHRA must provide the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

MHRA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 days of the resident returning keys to the management office.

Residents who fail to schedule and attend move-out inspections waive all rights for appeal of charges.

Annual Inspections [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that MHRA inspects each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. MHRA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

MHRA will inspect all occupied units along with storage sheds and storage areas annually using HUD's Uniform Physical Condition Standards (UPCS).

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

MHRA Maintenance Supervisor will conduct quality control inspections on 5% of the units requiring repairs.

The Maintenance Supervisor will conduct random quality control inspections for approximately 5% of the preventative maintenance inspections conducted.

Special Inspections

The Property Manager and the Integrated Pest Management Coordinator may conduct periodic inspections to determine the condition of the unit and to identify problems or issues in which MHRA can be of service to the family, as necessary.

MHRA staff may conduct a special inspection for any of the following reasons:

- Housekeeping/Unit condition
- Health and Safety issues
- Suspected lease violation
- Preventive & Routine maintenance
- There is a reasonable cause to believe an emergency exists

Other Inspections

Building exteriors, grounds, common areas and systems will be inspected at all housing properties to determine hazardous conditions as well as to assist in budget preparation.

Playground inspections are conducted on an annual basis, at a minimum, by the Maintenance Department to determine playground safety.

MHRA will periodically conduct a walk through inspection to determine whether there may be lease violations, adverse conditions or local code violations.

HUD representatives or local government officials may review MHRA operations periodically and as part of their monitoring may inspect a sampling of MHRA's inventory.

Emergency Inspections

MHRA staff may initiate an emergency work order if they believe that an emergency exists on a public housing site. In addition, the maintenance staff may conduct an emergency inspection without a work order and generate a work order after the inspection has been conducted.

The emergency condition will be mitigated within twenty-four (24) hours from the time the emergency is reported.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

MHRA 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.

MHRA will provide a written notice specifying the purpose for non-emergency entry into the unit which will be delivered to the premises at least forty-eight (48) hours before entry and is considered reasonable advance notification.

If no person is at home, the inspector will enter the unit and conduct the inspection. If no one is in the unit, the person(s) who enters the unit will leave a written notice to the resident explaining the reason the unit was entered and the date and time.

When MHRA is conducting regular annual inspections of its housing units, the family will receive at least a one-week notice of the inspection to allow the family to prepare the unit for inspection.

If the head of household cannot be present, another family member may be present, provided that they are at least 18 years of age. If no one 18 years of age or older is present the inspection will be rescheduled.

Repairs requested by the family will not require prior notice to the family. Residents are notified in the lease that resident-requested repairs presume permission for MHRA to enter provided there is a family member 18 years of age or older present if there are minors present at the time of inspection.

Emergency Entries [24 CFR 966.4(j)(2)]

MHRA 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, MHRA will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Non-inspection Emergency Entry

MHRA staff will allow access to the unit to proper authorities when the issues of health and safety of the resident are concerned.

Scheduling of Inspections

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify MHRA at least 24 hours prior to the scheduled inspection. MHRA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. MHRA 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.

8-II.D. INSPECTION RESULTS

MHRA 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 MHRA of the damage, and MHRA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, MHRA will charge the family for the reasonable cost of repairs. MHRA may also take lease enforcement action against the family.

If MHRA cannot make repairs quickly, MHRA will offer the family standard alternative accommodations. If MHRA 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, MHRA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Lockout (with proper identification of resident)
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water or 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
- Inoperable stoves and refrigerators

Non-emergency Repairs

MHRA will correct non-life threatening health and safety defects within twenty – eight (28) days of the inspection date. If MHRA is unable to make repairs within that period due to circumstances beyond MHRA's control (e.g. required parts or services are not available, weather conditions, etc.) MHRA will attempt to notify the family of an estimated date of completion.

The family must allow MHRA 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 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

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, MHRA will provide proper notice of a lease violation.

A reinspection will be conducted no sooner than five (5) days and no longer than fourteen (14)

days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

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.

EXHIBIT 8-1: SMOKE-FREE POLICY

In accordance with HUD regulations, MHRA has adopted a smoke-free policy. The policy is effective as of Board approval date.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from any public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term “smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Example policy 3: Use of ENDS is not permitted in public housing units, common areas, or in outdoor areas within 25 feet from housing and administrative buildings.

Effective Date

The smoke-free policy was effective for all residents, household members, employees, guests, and service persons at time of move in, at annual recertification but was no later than JULY 30, 2018. The smoke free policy is incorporated in the residential dwelling lease for new residents.

Enforcement

MHRA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, MHRA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. MHRA will not evict a resident for a single incident of smoking in violation of this policy. As such, MHRA implemented a graduated enforcement framework that includes escalating warnings. Prior to pursuing eviction for violation of smoke-free policies, MHRA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and offering to provide smoking cessation information. Residents will receive a verbal warning for the first incident. A second incident will require a written violation to residents which will identify the actions that constitute the policy violation. In addition the notice will include the number of documented, verified violations that warranted enforcement action and state the disciplinary actions that will be taken for persistent non-

responsiveness or repeated noncompliance. Three (3) repeated instances of noncompliance will constitute just cause for termination of the lease. Tenancy termination and eviction will be pursued only as a last resort. MHRA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Reasonable Accommodation

While addiction to nicotine or smoking is not a disability, MHRA will provide reasonable accommodation to persons with disabilities who smoke that are in compliance with the requirements of this smoke-free policy.

Chapter 9
RECERTIFICATIONS
[24 CFR 5.617, 24 CFR 960.209]

INTRODUCTION

This chapter defines MHRA's policy for conducting annual reexaminations. It also explains the interim reporting requirements for families, and the standards for timely reporting. Between regular annual recertifications, HUD requires that families report all changes in household composition, but MHRA decides what other changes must be reported and the procedures for reporting them. HUD requires that MHRA offer all families the choice of paying income-based rent or flat rent at least annually.

Residents who meet the following criteria will be eligible for continued occupancy:

- Qualify as a family as defined in this Plan;
- Are in full compliance with the obligations and responsibilities described in the dwelling lease;
- Whose family members, age six (6) and older, each have submitted their Social Security numbers or have certifications on file that they do not have a Social Security Number;
- Whose family members have submitted required citizenship/eligible immigration status/non-contending documents

Families who pay the flat rent will be re-examined every twelve (12) months for family composition.

This chapter discusses both annual and interim reexaminations and is discussed in two parts:

Part I: Annual Recertifications:

This part discusses the requirements for annual recertification of income and family composition.

Part II: Interim Recertifications:

This part includes HUD requirements and MHRA policy related to when a family may and must report changes that occur between annual recertifications

Policies governing reasonable accommodations, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to all recertifications.

PART I: ANNAUL RECERTIFICATIONS

9 – I. A. OVERVIEW

In order to be recertified, families are required to provide current and accurate information on income, assets, allowances and deductions, and family composition.

Families who choose flat rent are to be recertified at least once every three (3) years for family income but will be re-examined annually for family composition and review of the community service requirement.

Families who do not choose flat rent are recertified every twelve (12) months.

9 – I. B. SCEDULING ANNUAL RECERTIFICATIONS

MHRA will schedule annual recertificaitons to coincide with the family's anniversary date.

MHRA will begin the annual recertification process at least ninety (90) days in advance of the scheduled effective date. MHRA may also schedule an annual recertification for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Recertification Process

Families are required to participate in an annual recertification interview, which must be attended by the head of household, spouse or cohead. If participation in an in – person interview poses a hardship because of a family member's disability, the family should contact MHRA to request a reasonable accommodation.

Notification of annual recertification interviews will be sent by first class mail and will contain the date, time and location of the interview. It will also inform the family of the information and documentation that must be brought to the interview. The notification shall be sent at least ninety (90) days in advance of the recertification/anniversary date. If requested as an accommodation by a person with disabilities, MHRA will provide the notice in an accessible format. MHRA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

During any type or National or State Emergency Disasters recertifications may be completed by mail at the discretion of MHRA.

Requirements to Attend

All adult household members 18 years of age and over will be required to attend the recertification interview and sign the application for continued occupancy. If the head of household is unable to attend the interview:

1. The appointment will be rescheduled; or

2. The spouse/cohabitant (co-head) may recertify for the family, provided that the head of household comes in within five (5) days to recertify.

Failure to Respond to Notification to Recertify

The written notification will explain which family members are required to attend the recertification interview. The family may call up to one (1) day prior to the interview to request another appointment date.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with MHRA, a letter will be sent stating that if MHRA is not contacted within five (5) business days, that the amount or rent may increase to the current flat rent amount for that bedroom size effective the following month. The letter shall also notify the resident that failure to contact us by the effective date of the new rent amount that the lease will be terminated. Should the resident still fail to contact MHRA by the effective the lease will be terminated.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, a letter will be sent stating that if MHRA is not contacted within five (5) business days, that the amount or rent may increase to the current flat rent amount for that bedroom size effective the following month. The letter shall also notify the resident that failure to contact us by the effective date of the new rent amount that the lease will be terminated. Should the resident still fail to contact MHRA by the effective the lease will be terminated.

Exceptions to these policies may be made by MHRA if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

9 – I. C. CONDUCTING ANNUAL RECERTIFICATIONS

Families will be asked to bring all required information (as described in the recertification notice) to the recertification appointment. The required information will include a personal declaration form as well as supporting documentation related to the family's income, expenses and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ten (10) business days of the interview. If the family is unable to obtain the information or materials within the required time frame the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Documents Required from the Family

In the notification letter to the family MHRA will include instructions for the family to bring the

following:

- Documentation of income for all family members
- Documentation of all assets
- Documentation to substantiate any deductions or allowances
- Personal Declaration Form completed and signed by head of household and all adult members of the household
- Verification of student status of family members eighteen (18) and over
- Documentation to verify compliance with community service by all non-exempt adults

Verification of Information

All information which affects the family's continued eligibility for the program and the family's Total Tenant Payment (TTP) will be verified in accordance with the verification procedures and guidelines described in this policy. Verifications used for recertification must be less than one hundred-twenty (120) days old. All verifications will be placed in the file, which has been established for the family.

When the information has been verified, it will be analyzed to determine:

- the continued eligibility of the resident as a *family* or as the *remaining member* of a family;
- the unit size required by the family;
- the amount of rent the family shall pay.

For more information on verification requirements see Chapter 7.

PART II: INTERIM RECERTIFICATIONS

9 – II. A. OVERVIEW

Family circumstances may change during the period between annual recertifications. MHRA has defined which circumstances that interim changes will be completed and those are defined in this section.

9 – II. B. REPORTING INTERIM CHANGES

Families must report all changes in household composition, income and assets to MHRA within ten (10) days of the change. If there is any change in rent, including change in family's choice of rent, the lease will be amended and a Notice of Rent Adjustment will be issued [24 CFR 966.4(c)].

Increases in Income to be Reported

Families paying flat rent are not required to report any increases in income or assets for three (3) years from the effective date of the flat rent.

Families (other than those paying flat rent) must report all increases in income/assets of all household members to MHRA in writing within ten (10) days of the occurrence, including non-earned income and income earned by family members due to changes in employment, second job, changes of employers, etc.

Rent adjustments will not be processed for raises or promotions at the same employer.

If an increase in earnings does not change the gross rent more than \$20, an interim rent change will not be completed. The resident must report all increases in income within ten (10) days. MHRA will make an estimated calculation and determine if the rent would increase \$20 or more.

Decreases in Income

Residents may report a decrease in income and other changes, such as an increase in allowances or deductions that would reduce the amount of the total tenant payment.

MHRA will process a rent adjustment whenever there is a decrease in income unless MHRA confirms that the decrease in income will last less than thirty (30) calendar days.

MHRA Errors

If MHRA makes a calculation error at admission to the program or at annual recertification, an interim recertification will be conducted, if necessary. If the family's tenant rent increases the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

Changes in the Total Tenant Payment (TTP) Effective Dates:

MHRA must make the interim reexamination within a reasonable time after the family request.

If the family share of the rent is to increase:

- The increase generally will be effective on the first of the month following thirty (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.

If the family share of the rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

9 – II. C. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)

Standard for Timely Reporting of Changes

MHRA requires that families report interim changes to, and supply any information, documents and/or signatures needed, to verify said changes within ten (10) days of when the change occurs. If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation in the time period requested by MHRA, it will be considered untimely reporting.

Procedures When the Change is Reported in a Timely Manner

MHRA will notify the family of any changes in Tenant Rent to be effective according to the following guidelines:

- Increases in the Tenant Rent are effective on the first of the month following at least thirty (30) days' notice.
- Decreases in the Tenant Rent are effective the first of the month following the month in which the change is reported.

The change will not be made until the third-party verification is received.

Procedures when the Change is not Reported by the Resident in a Timely Manner

If the family does not report the change as described above, the family will be deemed as having caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

- Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any underpaid rent and may be required to sign a Repayment Agreement or make a lump sum payment. (See Repayment Agreement for Families, Chapter 14)
- Decrease in Tenant Rent will be effective on the first of the month following completion of processing by MHRA and not retroactively.

Procedures when the Change is not Processed by MHRA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change will be deemed as not having been processed by MHRA in a timely manner.

Therefore, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by MHRA. For example: if processing was completed on May 15th the increase would be effective July 1st.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

Procedure when the Change is Reported during the Annual Recertification Process

Tenant Rent Increases

If Tenant Rent increases, a thirty (30) day notice will be mailed to the family.

If less than thirty (30) days are remaining before the effective date, the Tenant Rent increase will be effective on the first of the month following the thirty (30) day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase to the rent.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the recertification/anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the recertification/anniversary date, tenant rent change will be effective on the first day of the month following completion of the reexamination processing by MHRA.

If tenant rent decreases and the change occurred within a month prior to the recertification appointment, but the family did not report the change as an interim adjustment, the decrease will be effective on the recertification anniversary date.

If the tenant rent decreases and the resident reported the change within a month prior to the annual recertification anniversary date or between the annual recertification anniversary date and the effective date of the annual recertification, the change will be treated as an interim. The change will be effective the first of the following month that the family reported the change. If necessary, MHRA will run another HUD 50058 as an annual recertification.

9 – II. D. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

MHRA will not reduce the public housing rent for families whose welfare assistance is reduced due to a “specified welfare benefit reduction,” which is a reduction in welfare benefits due to:

- fraud; or
- failure to participate in an economic self-sufficiency program; or
- noncompliance with work activities requirement.

However, MHRA will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment.

Verification Before Denying a Request to Reduce Rent

MHRA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction. MHRA will rely on the welfare agency's written notice regarding welfare sanctions.

Cooperation Agreements

MHRA has an informal cooperation agreement in place with the local welfare agency that assists MHRA in obtaining the necessary information regarding welfare sanctions. A draft formal agreement has been submitted.

MHRA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing

9 – II. E. OTHER INTERIM REPORTING ISSUES

Families paying a minimum rent will be reviewed monthly to make sure the family still qualifies for the minimum rent. Interims will only be completed once the family has income and no longer qualifies for the minimum rent.

MHRA may conduct the interim recertification by mail or at the home as a reasonable accommodation when requested. (See chapter titled “Statement of Policies and Objectives”)

In qualifying situations, for one year MHRA will disregard the earned income of family members residing in the unit and listed on the lease who were unemployed for a year or more or who were receiving TANF in the last six months and who obtained employment or whose income increased due to participation in a self-sufficiency or job training program. For the second twelve (12) month period, the family's rent will increase to 50% of the amount that would have been in effect. (See Chapter 6). The twelve (12) months run concurrently.

If a resident is unemployed for less than thirty (30) days no adjustment to rent will be made. The disallowance period is limited to twenty-four (24) months after employment. Within that 48 month period there will only be twelve (12) months of disregard and twelve (12) months of 50% disregard.

If a resident does not report additional income, the number of months of disallowance will be calculated from the first month of employment.

9 – II. F. REPORTING CHANGES IN FAMILY COMPOSITION

Families must report all changes in household composition to MHRA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody.

Household

The family must obtain MHRA approval prior to all other additions to the household. All additions to the household are subject to MHRA's suitability criteria. MHRA will not approve the addition of family members other than by birth, adoption, marriage or court awarded custody where the occupancy standards would require a larger size unit. The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified prior to the approval by MHRA of the family member being added to the lease.

When there is a change in head of household or a new adult family member is added (following screening), MHRA will complete an application and verify, using the same procedures MHRA staff would use for an annual reexamination, except for effective dates of changes. In such case, the Interim Reexamination Policy would be used.

The annual reexamination date will not change as a result of an interim change.

If an adult family member is declared permanently absent by the head of household or spouse/cohabitant (co-head), the notice must contain a certification by the head of household or spouse/cohabitant (co-head) that the member (who may be the head of household) removed is permanently absent.

The head of household must provide a statement that the head of household or spouse/cohabitant (co-head) will notify MHRA if the removed member returns to the household for a period longer than the visitor period allowed in the lease.

Increase in Family Size

MHRA will consider a unit transfer if needed under the Occupancy Guidelines for additions to the family.

If a change due to birth, adoption, court-awarded custody, or need for a live-in aide requires a larger size unit due to overcrowding, the change in unit size shall be made effective upon availability of an appropriately sized unit.

Definition of Temporarily/Permanently Absent

MHRA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. MHRA will evaluate absences from the unit in accordance with this policy.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, MHRA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify MHRA before they move out of a unit in accordance with the lease and to give MHRA information about any family absence from the unit.

Families must notify MHRA if they are going to be absent from the unit for more than fourteen (14) consecutive days. A person with disabilities may request an extension of time as an accommodation.

"Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, MHRA may:

- Conduct a home visit/special inspection;
- Write letters to the family at the unit;
- Post letters on exterior door (s);
- Telephone the family at the unit;
- Interview neighbors;
- Verify if utilities are in service;
- Check with Post Office for forwarding address;
- Contact emergency contact;
- Use other reasonable means to determine if the family is absent from the unit.

Unless the family has requested and received permission, if the entire family is absent from the unit for more than thirty (30) consecutive days, the unit will be considered to be vacant and MHRA will terminate tenancy.

As a reasonable accommodation for a person with disabilities, MHRA may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.) During the period of absence, the rent and other charges must remain current.

If the absence which resulted in termination of tenancy was due to a person's disability, and MHRA can verify that the person was unable to notify MHRA in accordance with the lease provisions regarding absences, and if a suitable unit is available, MHRA may reinstate the family as an accommodation if requested by the family.

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit

for six (6) consecutive months in a twelve (12) month period except as otherwise provided in this chapter.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, MHRA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current. If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with MHRA's "Absence of Entire Family" policy.

Absence due to Incarceration

If the sole member is incarcerated for more than six (6) months, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for six (6) months. The rent and other charges must remain current during this period.

MHRA will determine if the reason for incarceration is for drug-related or criminal activity that would threaten the health, safety and right to peaceful enjoyment of the dwelling unit by other residents, in which case the lease will be terminated.

Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, MHRA will obtain verification from the appropriate agency to determine when the child/children will be returned to the home unless the agency confirms that the child has been permanently removed from the home. Children temporarily absent due to placement in foster care will be counted as a family member.

Absence of Adult

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the unit to care for the children for an indefinite period, MHRA will treat that adult as a visitor for the first fourteen (14) days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker subject to MHRA's suitability criteria.

If the court has not awarded custody or legal guardianship, but the action is in process, MHRA will secure verification from social services staff or the attorney as to the status. The caretaker

will be allowed to remain in the unit as a visitor until a determination of custody is made.

MHRA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than fourteen (14) days and it is reasonable to expect that custody will be granted.

When MHRA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. MHRA will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than six (6) months, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, the family must decide if they will be considered permanently or temporarily absent. If MHRA receives information that the person has established a separate household the family member will be considered permanently absent and income for this person will not be counted.

Absence due to Schooling

Full time students who attend school away from the home will be treated in the following manner: A student (other than head of household or spouse/co-head) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, or if MHRA receives information that the student has established a separate household, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of unit size.

If the student is considered temporarily absent from the household, applicable income for that person will be counted.

Visitors (See Chapter on Leasing)

Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) non-consecutive days in a twelve (12) month period will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is an unauthorized household member. MHRA will consider:

- Statements from neighbors and/or MHRA staff
- Vehicle license plate verification
- Post Office records
- Drivers license verification
- Law enforcement reports
- Credit reports

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and MHRA will terminate the family's lease since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to fourteen (14) days per calendar year without being considered a member of the household, unless there is prior approval of the management.

In a joint custody arrangement, if the minor is in the household less than half time, the minor will be considered to be an eligible visitor and not a family member. If both parents reside in a subsidized housing, only one parent would be able to claim the child for deductions and for determination of the occupancy standards.

9 – II. G. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF UNIT

To be considered the remaining member of the tenant family, the person must have been previously approved by MHRA to be living in the unit. A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member MHRA has to have received verification that social services and/or the Juvenile Court has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a transfer to an appropriate unit size per the Occupancy Standards.

9 – II. H. CHANGES IN UNIT SIZE

MHRA shall grant exceptions to the Occupancy Standards if the family requests and MHRA determines the exceptions are justified according to this policy.

MHRA will not assign a larger bedroom size due to additions of family members other than by birth, adoption, marriage, court-awarded custody or need for live-in aide..

MHRA will consider the size of the unit and the size of the bedrooms, as well as the number of bedrooms, when an exception is requested.

When an approvable change in the circumstances in a resident family requires another unit size, the family's move depends upon the availability of a suitable size and type of unit. If the unit is not available at the time it is requested, the family will be placed on the Transfer List.
(Reference chapter on Occupancy Standards)

9 – II.I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES

Under the Non-Citizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

- The head of household or spouse/cohabitant (co-head) is a U.S. citizen or has eligible immigrant status; and
- The family does not include any ineligible immigrants other than the head or spouse/cohabitant (co-head), or parents or children of the head of household or spouse.

Mixed families who qualify for continued assistance after November 29, 1996 may receive prorated assistance only.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, or the family may choose prorated assistance (See chapter titled "Factors Related to Total Tenant Payment Determination"). MHRA may no longer offer temporary deferral of termination (See chapter on "Lease Terminations").

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains MHRA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of MHRA 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 MHRA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals, and pets, and contains policies related to the designation of a service animal or 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 elderly/disabled developments.

PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;
Notice FHEO 2013-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for a service animal or an assistance animal may be denied, and also establishes standards for the care of service and assistance animals.

Notice FHEO 2013-01 was published April 25, 2013. The notice explains the difference between service animals and assistance animals. While the ADA applies to the premises of public housing agencies and to "public accommodations" such as stores and movie theaters, it does not apply to private-market rental housing. Therefore, in public housing the MHRA must evaluate a request for a service animal under both the ADA and the Fair Housing Act. Service animals are limited to trained dogs.

Neither service animals nor assistance animals are pets, and thus, are not subject to the MHRA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2013-01].

10-I.B. APPROVAL OF SERVICE ANIMALS AND ASSISTANCE ANIMALS

Notice FHEO 2013-01 states that MHRA should first evaluate the request as a service animal under the ADA. MHRA may only ask whether the dog is a service animal required due to a disability, and what tasks the animal has been trained to perform.

MHRA cannot require proof of training or certification for a service animal, even if the disability and/or tasks performed are not readily apparent. If the disability and/or tasks performed are not

readily apparent, no further inquiries may be made.

MHRA may only deny a request for a service animal in limited circumstances:

- The animal is out of control and the handler does not take effective action to control it
- The animal is not housebroken, or
- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies

A service animal must be permitted in all areas of the facility where members of the public are allowed.

If the animal does not qualify as a service animal under the ADA, MHRA must next determine whether the animal would qualify as an assistance animal under the reasonable accommodation provisions of the Fair Housing Act. Such assistance animals may include animals other than dogs.

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].

MHRA 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].

MHRA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable 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

MHRA has the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and MHRA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority MHRA may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

Residents must care for service animals and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of a service animal or assistance animal violates these policies, MHRA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If MHRA determines that no such accommodation can be made, MHRA may withdraw the approval of a particular service or assistance animal.

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 that allow pets.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

MHRA requires registration of pets with MHRA. [24 CFR 960.707(b)(5)].

Pets must be registered with MHRA 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.

Refusal to Register Pets

MHRA will refuse to register a pet if:

- The pet is not a *common household pet* as defined in Section 10-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant/resident 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

- MHRA 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 MHRA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of MHRA'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 MHRA's grievance procedures. The notice of refusal may be combined with a notice of a pet (lease) violation.

Pet Agreement

Residents who have been approved to have a pet must enter into a pet agreement with the MHRA, 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 the MHRA'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 the pet policy and applicable house rules may result in the withdrawal of MHRA's approval of the pet or termination of tenancy.

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.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

MHRA has established reasonable requirements related to pet ownership including, but not limited to:

1. Resident must provide information sufficient to identify the pet and demonstrate that it is a pet allowed by MHRA and provide a photograph of the pet.
2. No animal may be more than twenty (20) inches high nor weigh more than forty (40) pounds at full growth.
3. Resident must be totally responsible for the care and cleanliness of the animal, both within the building and apartment areas.
4. No more than one dog or one cat is permitted in each dwelling unit.

5. Animals must be leashed. No animal waste will be tolerated on any building site. A pet waste removal charge of \$25.00 will be assessed for each occurrence up to three (3). Any further offenses and thereafter will be considered good cause for withdrawal of permission to have a pet. Failure to remove the pet will result in lease termination.
6. If a resident cares for another resident's pet, they must abide by all rules in the Pet Policy.
7. MHRA shall not be held responsible for illnesses caused to animals due to maintenance procedures such as extermination, use of cleaning or painting products, lawn and garden care.
8. The pet owner must register the pet before it is brought on the development premises and must update the registration annually, at time of recertification.
9. Resident must provide management with a veterinarian's certificate stating the animal is in good health and, if pet is a dog or cat, that it has been neutered or spayed and received all necessary inoculations.
10. Any person who considers a dog to be a nuisance (barking for sustained periods so as to disturb the peace and quiet of a neighborhood or area) or a menace (vicious to persons, their animals or property) may make a complaint in writing to any law enforcement officer and such complaint will be filed.
11. All pets shall be licensed as appropriate under local law.
12. Except for entering and exiting, no pet shall be allowed in common areas, e.g.: lobbies, community center/rooms, laundry areas, hallways, stair towers, above grade balconies or platforms, outside areas where residents congregate, etc. of any building.

Types of Pets Allowed

Residents are not permitted to have more than one type of pet.

No types of pets other than the following may be kept by a resident:

1. Dogs (Allowed in elderly housing only)

Maximum number: one (1)

Maximum adult weight: forty (40) pounds at full growth

Maximum adult height – 20 inches at full growth

Must be housebroken

Must be spayed or neutered

Must have all required inoculations

Must be licensed as specified now or in the future by state law and local ordinance, rules and regulations

2. Cats (Allowed in elderly housing only)

Maximum number: one (1)

Must be spayed or neutered

Must have all required inoculations

Must be trained to use a litter box or other waste receptacle

Must be licensed as specified now or in the future by state law or local ordinance, rules and regulations

3. Birds (Allowed in both elderly and family housing)

Maximum number: two (2)

Must be enclosed in a cage at all times

4. Fish (Allowed in both elderly and family housing)

Maximum aquarium size: 1-20 gallon

Must be maintained on a safe and sturdy stand

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with MHRA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

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. They must be under the control of the resident or other responsible individual at all times.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on 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]

The following areas are designated no-pet areas:

- Outside areas where residents congregate.
- Lobbies, except to enter and exit.

- Community centers/rooms.
- Laundry areas.
- Hallways and stair towers, except to enter and exit.
- Above grade community balconies and platforms.

Cleanliness

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 MHRA.

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 in a sealed plastic trash bag and placed in a trash bin. Litter should be double bagged and must maintain litter boxes in a sanitary manner. Litter shall not be disposed of through garbage shoots. Resident must bring the bag of litter to the dumpster.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit and maintained in a sanitary condition.

Alterations to Unit

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

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to, loud or continuous barking, howling, whining, biting, scratching, chirping or other such activities.

Pet Care

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 MHRA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

No pet shall be left unattended in any apartment for an inappropriate period of time.

Resident pet owners must recognize that other residents may have chemical sensitivities or allergies related to pets, or may be easily frightened or disoriented by animals. Pet owners must agree to exercise courtesy with respect to other residents.

Responsible Parties

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. If a responsible party cannot be reached and MHRA has exhausted all efforts, MHRA will contact Animal Control for the removal of the pet.

A resident who cares for another resident's pet must notify MHRA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals including on MHRA property including but not limited to cats, pigeons and squirrels.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by MHRA.

Pet Rule Violations

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 policy, 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 five (5) 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

If the pet owner and MHRA are unable to resolve the violation at the meeting or the resident/pet owner fails to correct the violation in the time period allotted by MHRA, MHRA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for MHRA's determination of the pet rule that has been violated.
- The requirement that the resident /pet owner must remove the pet within five (5) business days of the notice.
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

Pet Removal

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. This would include pets that are poorly cared for or have been left unattended over 24 hours.

If the responsible party is unwilling or unable to care for the pet, or if MHRA after reasonable efforts cannot contact the responsible party, MHRA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

MHRA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The resident/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

MHRA 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 MHRA 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.

10-III.A. OTHER CHARGES

Pet-Related Damages During Occupancy

All reasonable expenses incurred by MHRA 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 development
- The expense of flea elimination shall also be the responsibility of the resident.
- If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges.
- Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

A separate pet waste removal charge of \$25.00 per occurrence will be assessed against the resident for violation of the pet policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. If the family requests a grievance hearing within the required timeframe, MHRA 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 paid by the resident.

Chapter 11

COMMUNITY SERVICE

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

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)].

Residents will be told that an exemption can be requested at any time. Initially, each adult household member will be provided a list of exemptions and a form to complete, sign and return that will allow the resident to claim an exemption. The form will request an explanation as to why the exemption claimed limits the resident's ability to perform all types of community service.

Prior to being housed, all applicants will be given a written description of the service requirement and the process for claiming an exemption. Exemptions will be requested through the Public housing Property management Department. The Property Manager will verify exemptions whenever possible. Public Housing Management will notify all those considered exempt and all those required to comply.

At lease execution, all adult members eighteen (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 community service requirements will result in a non-renewal of their lease.

In administering community service requirements, MHRA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of MHRA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

MHRA shall provide an exemption from the CSSR for any individual who:

- Is age 62 years or older

- Is blind or disabled (as defined under section 216[i][I] 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 engaged in work activities as defined in Section 407(d) of the Social Security Act.
MHRA considers 20 hours per week as the minimum number of hours needed to qualify for a work activity.
- Is able to meet requirements of being exempted under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the state in which MHRA is located, including a state-administered welfare-to-work program
 - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the state in which MHRA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing).
- Nonprofit organizations serving MHRA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters.
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- Care for the children of other residents so parent may volunteer

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- 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 equivalency, in the case of a recipient who has not completed secondary school or received such a certificate

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

MHRA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

At least 60 days prior to lease renewal, MHRA 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 MHRA 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 annual recertification.

Determination of Compliance

MHRA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, MHRA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Approximately 60 days prior to the end of the lease term, MHRA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will be required to submit the MHRA required documentation form(s) at time of scheduled recertification appointment.

If the family fails to submit the required documentation at the required time frame, or MHRA approved extension, the subject family members will be considered non-compliant with community service requirements and notices of non-compliance will be issued pursuant to the policies in Section 11-I.E., Non-compliance.

Change in Status between Annual Determinations

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to the MHRA within ten (10) days.

Within ten (10) days of a family reporting such a change, or MHRA determining such a change is necessary, MHRA 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 the date of the change in exemption status.

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term.

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to MHRA within ten (10) business days. Any claim of exemption will be verified by MHRA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within ten (10) business days of a family reporting such a change, or MHRA determining such a change is necessary, MHRA will provide the family written notice that the family member is no longer subject to the community service requirement, if MHRA is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

MHRA 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 11-2. MHRA will provide a completed copy to the family and will keep a copy in the tenant file.

MHRA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

MHRA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with MHRA's determination, s/he can dispute the decision through MHRA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled re-examination, each non-exempt family member presents a signed documentation of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12]. MHRA requires certification from a third party [24 CFR 960.607].

The family member who is required to fulfill a service requirement must provide documentation required by MHRA. MHRA may require a self-certification or certification from a third party [24 CFR 960.607].

If MHRA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

HUD strongly advises MHRA to investigate community service compliance when there are

questions of accuracy.

Each individual who is subject to the community service 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 MHRA upon request and at least annually.

If MHRA has reasonable cause to believe that the certification provided by the family is false or fraudulent, MHRA has the right to require additional third-party verification.

11-I.E. NON-COMPLIANCE

Noncompliant Residents

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 non-renewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

MHRA may not evict a family due to CSSR noncompliance. However, if MHRA finds a tenant is noncompliant with CSSR, MHRA will provide written notification to the tenant of the non-compliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that MHRA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with MHRA or the family provides written assurance that is satisfactory to MHRA explaining that the tenant or other non-compliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a non-compliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice will also state that the tenant may request a grievance hearing on MHRA's determination, in accordance with the MHRA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for MHRA's non-renewal of the lease because of the MHRA's determination.

Continued Non-Compliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, MHRA is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53©) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, MHRA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease.

- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by MHRA, including the right to
- confront and cross-examine witnesses and present any affirmative legal or equitable defense
- which the tenant may have; and,
- A decision on the merits.

Notices of continued non-compliance will be sent at least thirty (30) days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form Delivery, and Content of the Notice.

The family will have ten (10) business days from the date of the notice of non-compliance to provide documentation that the non-compliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a non-compliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before MHRA 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 non-compliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required ten (10) business day time frame, 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

Residents will design their own Community Service Program and submit it to the Property Manager for approval.

MHRA will not be responsible for reminding residents to complete the requirements or submit documentation but will ask for documentation at annual recertification.

EXHIBIT 11-1: COMMUNITY SERVICE REQUIREMENT

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt adult household members participate in an economic self-sufficiency program or perform eight (8) hours of community service each month.

“Community Service” is defined as the performance of voluntary work or duties that are a public benefit and that serve to improve the quality of life, enhance resident self-sufficiency or increase resident in the community. Community Service is not employment and may not include political activities. Enclosed is a Community Service Form. Completed Community Service Forms must be signed by your Community Service Program Supervisor and be submitted to your Management Office at the time of your annual recertification. MHRA will not be responsible for reminding residents to complete the requirement or submit documentation.

You may request an exemption from the Community Service/Economic Self-Sufficiency requirement at any time. Enclosed is a form that lists the exemptions. You must complete, sign and return this form if you wish to claim an exemption. In the event you claim an exemption, you must explain why the exemption claimed limits your ability to perform all types of community service. Note that there is a section provided on the form for this explanation and your certification. Also note that MHRA will verify your explanation.

Residents may request a Grievance Hearing throughout this process.

REQUIREMENT:

Each non-exempt adult resident of MHRA shall:

Contribute eight (8) hours per month of community service (not including political activities) within the community in which the adult resides; or

Participate in an economic self-sufficiency program (defined below) for eight (8) hours per month; or

Perform eight (8) hours per month of combined activities (community service and economic self-sufficiency program).

EXEMPTIONS:

MHRA shall provide an exemption from the community service requirement for any individual who:

- 1) Is 62 years of age or older.
- 2) Is blind or a disabled individual, as defined under Section 216(i)(1) or 1614 of the Social Security Act and who is unable to comply with this section, or is the primary caretaker of such individual.
- 3) Is engaged in a work activity as defined in Section 407 of the Social Security Act.
- 4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under Part A of the Title IV of the Social Security Act or under any

welfare program of the State in which the public housing agency is located, including State administered Welfare-To-Work Program.

- 5) 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 the public housing agency is located, including State administered Welfare-To-Work program, and has not been found by the state or other administering entity to be in non-compliance with such program.

MHRA will re-verify exemption status annually. After verification, MHRA will permit residents to change exemption status during the year. Residents need to contact their Management Office to complete the necessary paperwork.

ECONOMIC SELF SUFFICIENCY PROGRAMS:

For purposes of satisfying the community service requirement, participating in an economic self-sufficiency program is defined, in addition to the exemption definitions described above, as participation in 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, apprenticeship or any other program necessary to ready a participant to work, such as substance abuse or mental health treatment.

In order for participation in family self-sufficiency program to qualify, the participant must be current in steps outlined in an individual training or services plan.

MHRA will consider a broad range of self-sufficiency opportunities.

Participant must be actively engaged in the activity for eight (8) hours per month.

COMMUNITY SERVICE:

MHRA will give residents the greatest choice possible in identifying community service opportunities.

Examples residents may wish to consider are:

Volunteer work in a local school, hospital, childcare center, homeless shelter, or other community service organization; working with youth organizations; apprenticeships; helping neighborhood groups or special projects; other activities approved by MHRA.

As noted above, MHRA will give residents the greatest choice possible in identifying community service opportunities and will consider a broad range of self-sufficiency opportunities. Resident Services Staff and Management Staff will be available to discuss these opportunities.

ANNUAL DETERMINATIONS:

For each Public Housing resident subject to the requirement of community service, MHRA shall, thirty (30) days before the expiration of each lease term, review and determine the compliance of the resident

with the community service requirement. Such determinations shall be made in accordance with the principles of due process and on a non-discriminatory basis.

Family members will not be permitted to self-certify that they have complied with the community service requirements.

NON-COMPLIANCE:

If MHRA determines that a resident subject to the community service requirement has not complied with the requirement, MHRA shall notify the resident of non-compliance and that:

The determination of non-compliance is subject to the administrative grievance procedure under MHRA's Grievance procedure; and that unless the resident enters into an agreement to comply with the community service requirement, the resident's lease will not be renewed; and MHRA may not renew or extend the resident's lease twelve (12) months after implementation; and that necessary action shall be taken to terminate residency unless the MHRA and the resident enter into an agreement prior to lease expiration; and the agreement must require the resident to comply with the Community Service requirement by participating in an approved program for as many additional hours as the resident needs to comply with current requirements and past deficiencies over the next twelve (12) month lease term.

INELIGIBILITY FOR OCCUPANCY FOR NON-COMPLIANCE:

MHRA shall not renew or extend any lease, or provide any new lease, for a dwelling unit for any household that includes an adult member who was subject to the community service requirement and failed to comply with the requirement.

Enclosures:

Exemption Form

Participation Form

By Signing below, I hereby certify that I have received a copy of this notice:

Signature

Date

MHRA Representative

Date

EXHIBIT 11-2: MHRA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE
--

Family: _____

Adult Family Member: _____

This adult family member meets the requirements for being exempted from the MHRA'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/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

- ☐ I am the primary caretaker of such an individual in the above category. (*Documentation in file*)
- ☐ I am working at least twenty (20) hours per week. (*Employment verification in file*)
- ☐ I am participating in a Welfare-To-Work Program (*Documentation in file*)
- ☐ I meet the requirements for being exempted from having to engage in a work activity under TANF or other State Welfare Program, including a State-administered Welfare-To-Work program. (*Documentation in file*)
- ☐ I am a member of a family receiving assistance, benefits or services under TANF or any other State Welfare Program and have not been found to be in non-compliance with such program. (*Documentation in file*)

Signature of Family Member

Date

MHRA Representative

Date

EXHIBIT 11-3: COMMUNITY SERVICE/ECONOMIC SELF-SUFFICIENCY FORM

This is to certify that _____ (Resident Name) of
_____ (Address) has completed _____ hours of
community/economic self-sufficiency program at _____
during the month of _____, 20_____.

Certified: _____

(Signature of Agency Director/Community Service Supervisor or other)

(Print Name and Title)

(Phone Number)

(Date)

EXHIBIT 11-4: CSSR WORKOUT AGREEMENT FOR NON-COMPLIANT FAMILY COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT

In accordance with the provisions of the Manchester Housing and Redevelopment Authority's (MHRA) Community Service and Self-sufficiency requirement, all household members eighteen (18) years of age and older, unless able to claim an exemption, are required to perform community service or participate in an economic self-sufficiency program for eight (8) hours per month.

You are currently in non-compliance with the Community Service and Self-sufficiency requirement and must make up the hours that have not been completed. As you make up these hours, you are responsible for completing the current hours required (eight (8) hours monthly). Failure to complete the hours you failed to do, along with maintaining compliance with the current hours by your next recertification will result in termination of your lease with MHRA.

I understand that I am in non-compliance with the Community Service and Self-Sufficiency requirements.

I further understand that I am required to make up _____ (Number of Hours) hours,

which must be completed by _____ (Month/Day/Year). I also understand that

in order to obtain a lease renewal on the expiration date of my current lease, I must be in compliance

with both any delinquent community service requirements and current requirement.

Non-Compliant Member (Printed Name)

Address

Head of Household Signature

Date

Non-Compliant Family Member Signature

Date

MHRA Representative

Date

CHAPTER 12

TRANSFER POLICY

INTRODUCTION

The transferring of families is a very costly procedure, both to MHRA and to the families. However, it is the policy of MHRA to permit a resident to transfer within or between housing developments when it is necessary to comply with occupancy standards, reasonable accommodations or when it will help accomplish the Affirmative Housing goals of MHRA. The transfer policy will be carried out in a manner that does not violate fair housing.

This chapter describes HUD regulations and MHRA'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: MHRA Required Transfers. This part describes types of transfers that may be required by the PHA, 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.

MHRA 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.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by MHRA.

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, MHRA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

The VAWA 2013 final rule requires MHRA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking.

The following are considered emergency circumstance warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health, or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, fire, flood, no water, toxic contamination, and serious water leaks.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, MHRA may waive this requirement in order to expedite the transfer process.
- MHRA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. MHRA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. MHRA defines *immediately available* as a vacant unit, that is ready for move-in within a reasonable period of time. If an internal transfer to a safe unit is not immediately available, MHRA will assist the resident in seeking an external emergency transfer either within or outside MHRA's programs.
- MHRA has adopted an emergency transfer plan.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, MHRA 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, MHRA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, MHRA will follow procedures outlined in the VAWA Emergency Action Plan.

12-I.D. COSTS OF TRANSFER

MHRA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

PART II: MHRA REQUIRED TRANSFERS

12-II.A. OVERVIEW

MHRA may require that a resident transfer to another unit under so under some circumstances. For example, MHRA may require a resident to transfer to make an accessible unit available to a disabled family. MHRA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, MHRA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by MHRA 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 PHA REQUIRED TRANSFERS

The types of transfers that may be required by MHRA, 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 MHRA 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, MHRA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

MHRA 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

The PHA 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 MHRA policy [24 CFR 960.257(a)(4)]. On some occasions, MHRA 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)].

MHRA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on the PHA's occupancy standards as described in Section 5-I.B.

MHRA 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 MHRA's occupancy standards, when MHRA determines there is a need for the transfer.

MHRA 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 MHRA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit MHRA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

MHRA 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. MHRA'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)]

A MHRA 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, MHRA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

MHRA will bear the reasonable costs of transfers that MHRA requires, except that residents will be required to bear the cost of occupancy standards transfers.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides MHRA with discretion to consider transfer requests from tenants. The only requests that the MHRA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of MHRA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the MHRA.

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 the MHRA 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 the MHRA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the MHRA.

MHRA will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-

threatening nature

- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the PHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.
- 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

MHRA 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 MHRA's definition of overcrowded, as long as the family meets MHRA'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.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

MHRA Policy

Except where reasonable accommodation is being requested, MHRA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of 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 MHRA's advantage to make the transfer.

Exceptions will also be made when MHRA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking, and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

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, MHRA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the “old” unit.

12-III.E. COST OF TRANSFER

MHRA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2010-26].

The resident will bear all of the costs of transfer s/he requests. However, MHRA will bear the transfer costs when the transfer is done as a reasonable accommodation.

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 order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP). MHRA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If MHRA accepts an individual’s statement, MHRA will document acceptance of the statement in the individual’s file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with MHRA’s Emergency Transfer Plan (Exhibit 16-3).

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

MHRA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

MHRA will respond within ten (10) business days of the submission of the family’s request. If MHRA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

MHRA 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 cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other MHRA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, MHRA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the MHRA 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 of a transfer.

When the transfer is required by MHRA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

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:

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

MHRA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

If subject to deconcentration requirements, the PHA 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 the PHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13
LEASE TERMINATIONS
[24 CFR 966.4]

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance.

MHRA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by MHRA.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by MHRA. It is presented in four parts:

Part I: Termination by the Tenant

This part discusses the MHRA requirements for voluntary termination of the lease by the family.

Part II: Termination by MHRA – Mandatory

This part describes circumstances when termination of the lease by MHRA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by MHRA – Other Authorized Reasons

This part describes MHRA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes MHRA to terminate. For some of these options HUD requires that MHRA to establish policies and lease provisions for termination, but termination is not mandatory. For other options MHRA has the full discretion whether to consider the options as just cause to terminate the lease as long as the policies are reasonable, nondiscriminatory and do not violate state and local – landlord tenant law. This part also discusses the alternatives that MHRA may consider in lieu of termination and the criteria MHRA 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 MHRA policies regarding the timing and content of written notices for lease termination and eviction, and notification to the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION OF THE TENANT

13 – I. A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4 (k) (1) (ii) and 24 CFR 966.4 (1) (1)]

The family may terminate the lease at any time, for any reason by following the notification procedures as outlined in the lease. If a family desires to move and terminate their tenancy with MHRA, they must give at least a thirty (30) calendar days advance written notice to MHRA of their intent to vacate. Such notice must be in writing and delivered to the property site office or sent by pre – paid first – class mail, properly addressed.

PART II: TERMINATION BY MHRA

13 – II. A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute grounds for lease termination, but the lease termination is not mandatory.

For those tenant actions or failure to act where HUD requires termination, MHRA has no such option. In those cases, the family's lease must be terminated. This part describes the situations in which HUD requires MHRA to terminate the lease.

Termination of residency will be in accordance with MHRA's lease.

13 – II. B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259 (a) and (b)]

MHRA 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)]

MHRA must terminate the lease if:

- (1) a family fails to submit required documentation within the required time frame concerning any family member's citizenship or immigration status;
- (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or
- (3) a family member, as determined by MHRA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. 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.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2012-10]

MHRA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and MHRA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, MHRA may defer the family's termination and provide the opportunity to comply with the requirement if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline. This period is not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant. See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE MHRA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

MHRA must terminate the lease if the family fails to accept MHRA's offer of a lease revision to an existing lease, provided MHRA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

MHRA must immediately terminate the lease if MHRA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should MHRA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, MHRA must immediately terminate assistance for the household member. In this situation, MHRA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, MHRA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

MHRA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]

MHRA must immediately terminate the lease following the death of the sole family member.

PART III: OTHER AUTHORIZED REASONS FOR TERMINATION BY MHRA

13-III.A. OVERVIEW

HUD requires MHRA 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 MHRA to terminate for such violations in all cases. MHRA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and MHRA may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes MHRA 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 for other good cause.

MHRA may consider alternatives to termination and has established policies describing the criteria MHRA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps MHRA must take when terminating a family's lease. This can be found in section III of this chapter.

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 MHRA to terminate for such violations in all cases, therefore MHRA has developed these policies.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

MHRA 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.

MHRA 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.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

MHRA will terminate the lease when MHRA determines that a household member is illegally using a drug or MHRA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

The PHA 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.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

MHRA 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 MHRA 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.)

MHRA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, MHRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, MHRA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

MHRA will terminate the lease if MHRA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. (A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.)

MHRA 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.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

MHRA will terminate the lease if MHRA 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.

MHRA 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, MHRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

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)]

The PHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges, three late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by the PHA 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

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that MHRA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit MHRA to only those examples. The Violence against Women Reauthorization Act of 2013 explicitly prohibits MHRA from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as “other good cause” for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [24 CFR 5.2005(c)(1)].

MHRA 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 of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for MHRA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by MHRA that such a dwelling unit is available

Failure to permit access to the unit by MHRA 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 inform MHRA of the birth, adoption or court-awarded custody of a child within 10 days

Failure to abide by the provisions of MHRA's pet policy

If the family has breached the terms of a repayment agreement entered into with MHRA

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 MHRA personnel.

Abusive or violent behavior towards MHRA 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, the PHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by- case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

The family must supply any information or certification requested by MHRA to verify that the family is living in the unit, or relating to family absence from the unit, including any MHRA-requested information or certification on the purposes of family absences. The family must cooperate with MHRA for this purpose.

The family must promptly notify MHRA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, MHRA will terminate the lease for other good cause.

Abandonment of the unit: If the family appears to have vacated the unit without giving proper notice, MHRA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, MHRA will secure the unit immediately to prevent vandalism and other criminal activity.

Over Income Families [24 CFR 960.261; FR Notice 7/26/18]

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over – income requirement states that after a family’s income has exceeded 120 percent of the area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, PHA’s must either terminate the family’s tenancy within six months of the determination or charge the family a monthly rent that is higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations.

MHRA has discretion, under 24 CFR 960.261, to adopt policies allowing termination of tenancy of families whose income exceeds the limit for the program eligibility. Such policies would exempt families from participation in the Family Self – Sufficiency (FSS) Program or currently receiving the earned income disallowance.

At annual or interim reexamination, if a family’s income exceeds the applicable over – income limit, MHRA will document the family file and begin tracking the family’s over – income status.

If one year after the applicable annual or interim reexamination the family’s income continues to exceed the applicable over – income limit, MHRA will notify the family in writing that their income has exceeded the over – income limit for one year and that if the family continues to be over – income for 12 consecutive months, the family will be subject to the MHRA’s over – income policies.

If two years after the applicable annual or interim reexamination the family’s income continues to exceed the applicable over – income limit, MHRA will notify the family in writing and terminate tenancy within (6) months of the second income determination.

If, at any time, an over – income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with MHRA policy. If, as a result, the previously over – income family is now below the over – income limit, the family is no longer subject to the over – income provisions as of the effective date of the recertification. MHRA will notify the family in writing that over – income policies no longer apply to them. If the family’s income later exceeds the over – income limit again, the family is entitled to a new two – year grace period.

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 MHRA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with MHRA policy. 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 MHRA request. See chapter 7 on policies for verification.

Additionally, under the Violence against Women Reauthorization Act of 2013, MHRA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

Repayment of Family Debts

If a family owes amounts to MHRA, as a condition of continued occupancy, MHRA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from MHRA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

MHRA 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, MHRA will 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.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

MHRA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the PHA's failure to terminate the tenancy

The effect of MHRA's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, MHRA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. MHRA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

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, MHRA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose MHRA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation [24 CFR 966.7]

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

MHRA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and MHRA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR

5.2005(c)(1), FR Notice 8/6/13].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

While VAWA prohibits MHRA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from

acting on the threat

If the tenant wishes to contest the MHRA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, MHRA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the MHRA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives MHRA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on MHRA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

If MHRA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that MHRA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

MHRA will bifurcate a family's lease and terminate the tenancy of a family member if MHRA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, MHRA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to MHRA by the victim in accordance with this section and section 16-VII.D. MHRA will also consider the factors in section 13.III.E. Upon such consideration, MHRA may, on a case-

by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If MHRA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, MHRA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, MHRA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

MHRA will conduct criminal records checks when it has come to the attention of MHRA, 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.

The PHA 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 all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, MHRA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of notice, to dispute the accuracy and relevance of the information. If the family does not contact the MHRA to dispute the

information within that 10 business day period, MHRA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine MHRA documents directly relevant to the termination or eviction. If MHRA does not make the documents available for examination upon request by the tenant, MHRA may not proceed with the eviction [24 CFR 996.4(m)].

When MHRA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the MHRA'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 MHRA 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 MHRA 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 MHRA, or for a drug-related criminal activity on or off the premises.

MHRA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be left in the apartment door.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD- 5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

MHRA 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, PHA 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

Eviction Notices 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 MHRA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the MHRA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, MHRA 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, MHRA will seek the assistance of the court to remove the family from the premises as per state and local law.

MHRA may not proceed with an eviction action if MHRA 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 MHRA evicts an individual or family for criminal activity, including drug-related criminal activity, MHRA 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

Resident files for residents whose leases were terminated for any reason will be kept by MHRA indefinitely.

- A written record of every termination and/or eviction will be maintained by MHRA 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

This chapter discusses grievances and appeals pertaining MHRA's 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 MHRA'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 MHRA 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 MHRA's 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 under MHRA's grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Notice of Denial [24 CFR 960.208(a)]

MHRA will give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for MHRA's decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, MHRA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to MHRA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of MHRA's notification of denial of admission.

MHRA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Use of Informal Hearing Process

MHRA offers the opportunity of an informal hearing to applicants who are determined ineligible, who do not meet MHRA's admission standards or for whom MHRA does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status stating the reason(s) for ineligibility. They will be offered an opportunity to meet and discuss the reason(s) or they may submit a written request for reconsideration within fourteen (14) days from notification by explaining the circumstances relating to the rejection of their application due to the screening criteria and offer reasons to refute MHRA's determination.

The application will then be reviewed by the Senior Asset Manager, who will consider the information and/or documents submitted by the applicant to refute the unfavorable information. It will be the decision of the Senior Asset Manager to either uphold or reverse the determination or request additional information from the applicant.

If the decision to deny the person's application is upheld, the applicant will be given the opportunity for an informal hearing. Applicants must submit their request for an informal hearing in writing to MHRA within fourteen (14) working days from the notification of the Senior Asset Manager's decision.

If the applicant requests an informal hearing, MHRA will provide an informal hearing within seven (7) working days of receiving the request. MHRA will notify the applicant of the place, date, and time for said hearing.

Hearings will be conducted by an impartial hearing officer designated by MHRA's Executive Director. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant may bring to the hearing any documentation or evidence s/he wishes and the evidence

along with the data compiled by MHRA will be considered by the hearing officer.

MHRA will notify the applicant of MHRA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the PHA 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 PHA 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. The PHA 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, the PHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, MHRA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

MHRA 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 MHRA must consider such accommodations. MHRA 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. Informal Hearing Decision [PH Occ GB, p. 58]

PART II: INFORMAL HEARINGS WITH REGARD TO NON-CITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while

the MHRA 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 the MHRA 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 the MHRA 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 MHRA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, MHRA 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 the PHA with a copy of the written request for appeal and proof of mailing.

MHRA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide MHRA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to MHRA, of its decision. When the USCIS notifies MHRA of the decision, MHRA must notify the family of its right to request an informal hearing. MHRA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that MHRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the MHRA 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

MHRA will provide an informal hearing before a Hearing Officer or 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 MHRA 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.

The family must request discovery of MHRA 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 MHRA, and to confront and cross-examine all witnesses on whose testimony or information MHRA 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 request an interpreter. MHRA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. MHRA may, but is not required to provide a transcript of the hearing.

Hearing Decision

MHRA 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)]

MHRA must retain for a minimum of 5 years the following documents that may have been submitted to MHRA by the family, or provided MHRA as part of the USCIS appeal or the MHRA 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 MHRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the 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]**

MHRA has a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any MHRA action or failure to act involving the lease or MHRA policies which adversely affect their rights, duties, welfare, or status. MHRA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

The MHRA grievance procedure will be incorporated by reference in the tenant lease.

MHRA must provide at least 30 days' notice to tenants and resident organizations setting forth proposed changes in the MHRA grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by MHRA before adoption of any changes to the grievance procedure

MHRA will 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 MHRA action or failure to act in accordance with the individual tenant’s lease or MHRA regulations which adversely affect the individual tenant’s rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to MHRA 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
- **Expedited Grievance** – a procedure established by MHRA for any grievance or termination that involves:
 - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
 - Any drug-related criminal activity on or off the premises
- **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 MHRA 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** – an impartial person selected by MHRA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with MHRA 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]

Grievances could potentially address most aspects of MHRA'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 MHRA. It is not applicable to disputes between tenants not involving MHRA. 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 MHRA.

MHRA is located in a HUD-declared due process state. Therefore, MHRA will not offer grievance hearings for lease terminations involving:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the MHRA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

MHRA will evict through the state/local judicial eviction procedures which provides the opportunity for a hearing in court which contains the basic elements of due process as defined in HUD regulations.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

MHRA will accept requests for an informal settlement of a grievance in writing, to MHRA's applicable Management Office within five (5) business days of the grievable event. Within five (5) business days of receipt of the request MHRA will arrange an informal 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, MHRA 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.

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 MHRA'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.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

The resident must submit a written request for a grievance hearing to MHRA within five (5) business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, MHRA'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 MHRA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and MHRA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate MHRA official.

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and MHRA.

MHRA may permit the tenant to request that the hearing be rescheduled 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, the MHRA may request documentation of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICERS [24 CFR 966.53(e)]

All grievance hearings shall be conducted by an impartial person or persons appointed by MHRA, other than the person who made or approved MHRA action under review, or a subordinate of such person.

The permanent appointment of person(s) who shall serve as hearing officers shall be governed by the following procedures:

- (1) MHRA shall nominate persons deemed appropriate by the Executive Director to sit as permanent hearing officers;
- (2) On final appointment, the persons appointed and the MHRA Resident Council if applicable shall be informed in writing of the appointments, A list of qualified hearing officers will be kept at MHRA's Main Office and be made available for public inspection at any time.

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 which shall include:

- The opportunity to examine before the grievance hearing any MHRA documents, including records and regulations that are directly relevant to the hearing. All requests for records and regulations shall be in writing.
- The tenant will be allowed to copy any such document at the tenant's expense. If MHRA does not make the document available for examination upon request by the

complainant, MHRA may not rely on such document at the grievance hearing. The cost of any copies shall be twenty-five cents (\$.25) per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

Hearings may be attended by the following applicable persons:

- A MHRA representative(s) and any witnesses for MHRA
- The tenant and any witnesses for the tenant
- The tenant's counsel or other representative
- Any other person approved by MHRA 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 MHRA, and to confront and cross-examine all witnesses upon whose testimony or information MHRA or its management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or MHRA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and MHRA must be notified of the determination by the hearing officer: Provided, That a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest MHRA'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.

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 MHRA 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.

General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter MHRA must sustain the burden of justifying the action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. MHRA and the tenant are given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

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 MHRA. 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 MHRA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine MHRA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of MHRA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or MHRA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)]. MHRA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

MHRA will 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.

See Chapter 2 for a thorough discussion of MHRA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g))

MHRA will comply with HUD's LEP Final Rule in providing language services

throughout the grievance process.

14-III.H. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within ten (10) business days after the completion of the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and MHRA. MHRA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions will also be maintained by MHRA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer. [24 CFR 966.57(a)].

In rendering a decision, the hearing officer will consider the following matters:

Notice to the Family: The hearing officer will determine if the reasons for the MHRA'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 MHRA policy.

Evidence to Support MHRA's 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 MHRA'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 MHRA policies. If the grounds for termination are not specified in the regulations or in compliance with MHRA policies, then the decision of MHRA will be overturned.

The hearing officer will issue a written decision to the family and MHRA no later than ten (10) business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the complainant
- Date, time, place of the hearing and name of the hearing officer
- Name of the MHRA representative(s)
- Name of family representative (if any)
- Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold MHRA's decision.

Order: The hearing report will include a statement of whether MHRA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct MHRA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct MHRA to restore the family's status.

Procedures for Further Hearing

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 MHRA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer is binding on MHRA which must take the action, or refrain from taking the action cited in the decision unless MHRA's Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern MHRA action or failure to act in accordance with or involving the complainant's lease on MHRA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and MHRA.

When MHRA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to MHRA's Board of Commissioners within ten (10) business days of the date of the hearing officer's decision. The Board has thirty (30) calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within ten (10) business days of this decision.

A decision by the hearing officer, or Board of Commissioners in favor of MHRA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

MHRA is committed to ensuring that funds made available to MHRA are spent in accordance with HUD requirements.

This chapter covers HUD and MHRA's 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 MHRA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures MHRA 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

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. MHRA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. MHRA is further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

MHRA anticipates that the vast majority of families and MHRA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that MHRA's program is administered effectively and according to the highest ethical and legal standards, MHRA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

MHRA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

MHRA will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, MHRA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

MHRA requires mandatory orientation sessions for all prospective residents upon execution of the lease. MHRA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a “Public Housing Forms for Most Common Violations Certification” to confirm that rules and pertinent regulations were explained to them.

MHRA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

MHRA staff will review and explain the contents of all HUD-MHRA-required forms prior to requesting family member signatures.

Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program 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

Quality Control and Analysis of Data

MHRA will employ a variety of methods to detect errors and program abuse, including:

MHRA routinely will use EIV and other non-HUD sources of up-front income verification.

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.

MHRA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies MHRA of any errors and potential cases of program abuse.

MHRA 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 MHRA’s error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

MHRA encourages staff, residents, and the public to report possible program abuse.

MHRA Management, Intake, Maintenance and Inspectional Services staff will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the MHRA Will Investigate

MHRA 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 MHRA 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.

MHRA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

If MHRA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, MHRA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Verification of Credit. In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to MHRA's review.

Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records. If relevant, MHRA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

Interviews with Head of Household or Family Members. MHRA will discuss the allegation (or details thereof) with the head of household or adult family member by scheduling an appointment at the appropriate MHRA office. A high standard of courtesy and professionalism will be maintained by the MHRA staff who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

Consent to Release of Information [24 CFR 960.259]

MHRA may investigate possible instances of error or abuse using all available MHRA and public records. If necessary, MHRA will require families to sign consent forms for the release of

additional information.

Placement of documents, evidence and statements obtained by MHRA

Documents and other evidence obtained by MHRA during the course of an investigation will be considered "work product" and will either be kept in the resident file or in a separate "work file." In either case, the resident file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among MHRA staff unless they are involved in the process or have information that may assist in the investigation.

Procedural Non-compliance

This category applies when the resident "fails to" observe a procedure or requirement of MHRA, but does not misrepresent a material fact, and there is no retroactive rent owed by the family. Examples of non-compliance violations are:

- Failure to appear at a pre-scheduled appointment.
- Failure to return verification in the time period specified by MHRA.

In such cases a notice will be sent to the family that contains the following:

- A description of the non-compliance and the procedure, policy or obligation which was violated.
- The date by which the violation must be corrected, or the procedure complied with, as appropriate.
- The action which will be taken by MHRA if the procedure or obligation is not complied with by the date specified by MHRA.
- The consequences of repeated (similar) violations.

Analysis and Findings

MHRA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation MHRA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to MHRA, 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 MHRA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, MHRA 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

MHRA 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 the MHRA 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, MHRA must promptly correct the tenant rent and any utility reimbursement prospectively.

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice unless the tenant fails to report.

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 MHRA or MHRA 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 MHRA to use incorrect information provided by a third party.

Family Reimbursement to MHRA

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. MHRA 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, the PHA will terminate the family's lease in accordance with the policies in Chapter 13.

MHRA Reimbursement to Family

MHRA 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 MHRA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to MHRA [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)].

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to employees, contractors, or other MHRA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the PHA 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

MHRA 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 MHRA may, at its discretion, impose any of the following remedies.

- MHRA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- MHRA 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).
- MHRA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- MHRA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. MHRA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of MHRA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a MHRA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the MHRA personnel handbook.

MHRA-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 MHRA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by MHRA staff.

MHRA Reimbursement to Family

MHRA 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

Any of the following will be considered evidence of program abuse by PHA 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 the MHRA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of MHRA 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

If MHRA has established criminal intent, and the case meets the criteria for prosecution, MHRA may refer the matter for prosecution under local or state law. When the amount of underpaid rent meets or exceeds five thousand dollars (\$5000.00), 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-ILE. FRAUD AND PROGRAM ABUSE RECOVERIES

If MHRA enters 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 MHRA recovers [Notice PIH 2007-27 (HA)].

If MHRA 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 MHRA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised.

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 the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes MHRA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence Against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

MHRA establishes monthly allowances for resident-purchased utilities.

MHRA will maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record is available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The objective of an established utility allowance 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 electricity only.

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Air-Conditioning

MHRA charges a reasonable air conditioner fee for apartments that do not have electricity paid for directly from the resident to the utility company.

Utility Allowance Revisions [24 CFR 965.507]

MHRA reviews 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.

Between annual reviews of utility allowances, MHRA will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. NOTICE REQUIREMENTS [965.502]

MHRA must give notice to all residents of proposed allowances 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 or revisions.
- Describe the basis for determination of the allowances 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 MHRA's documentation on which allowances 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, or revisions.

16-I.D. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, MHRA may 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].

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.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how MHRA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2017-23]

Establishing Flat Rents

In accordance with the 2015 Appropriations Act MHRA must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

MHRA is now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs, MHRA will implement new flat rents as necessary based changes to the FMR.

Posting of Flat Rents

MHRA will publicly post the schedule of flat rents in a conspicuous manner in the applicable MHRA Management Offices.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

MHRA maintains records that document the method used to determine flat rents, and that show how flat rents were determined by MHRA in accordance with this method.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

This chapter describes MHRA's policies for the recovery of monies that have been underpaid by families. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is MHRA's policy to meet the informational needs of families, and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support MHRA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.

When families owe money to MHRA, MHRA will make every effort to collect it. MHRA will use a variety of collection tools to recover debts including, but not limited to:

- Request for lump sum payments
- Civil suites
- Repayment agreements
- Collection agencies
- Credit bureaus

16-III.B. REPAYMENT AGREEMENT FOR FAMILIES

A Repayment Agreement as used in this Plan is a document entered into between MHRA and a person who owes a debt to MHRA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and remedies available to MHRA upon default of the agreement.

The amount, length of time and minimum monthly payment will be at the discretion of MHRA, depending on the individual circumstances, family's current income and rent, with a minimum monthly payment of at least \$25.00.

Late Payments

The payment is due the first of each month and will be considered in arrears if not received by the fifth of each month.

If the family's repayment agreement is in arrears, MHRA may require the family to pay the balance in full. Failure to pay in full may result in termination of residency and or name removed from wait list.

If the family requests a transfer to another unit and has a repayment agreement in place and the repayment agreement is not in arrears the family will be permitted to move.

There are some circumstances in which MHRA will not enter into a repayment agreement. They are:

1. If the family already has a Repayment Agreement in place. Any old debts must be paid in full.
2. If the repayment amount is in excess of \$5,000.00
3. If the payback is so much that it will take the family longer than the amount of time that passed since the change was required to be reported and to complete the agreement.

Depending upon the reason(s) for former repayment agreements, MHRA may not enter into a repayment agreement if the family had two such agreements within a prior calendar year.

Guidelines for Repayment Agreements

Repayment agreements will be executed between MHRA and the head of household.

Monthly payments may be decreased in case of hardship with the prior notice of the family, verification of the hardship and the approval of the Property Manager.

No transfer will be approved until the repayment is current unless the transfer is the result of the following causes:

- Family size exceeds the maximum for city code
- A natural disaster

16.III.C. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with the intent to deceive or mislead.

Family Error/Late Reporting

Families who owe money to MHRA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Agreement Section of this chapter or may be subject to lease termination and become subject to penalties under federal law, up to and including monetary fines and imprisonment.

Families who owe money to MHRA due to the family's failure to report increases in income will be required to repay in accordance with the payment procedures for program fraud, below.

Program Fraud

If a family owes an amount that equals or exceeds \$5,000.00 as a result of program fraud, the case may be referred to the Inspector General. When appropriate, MHRA may refer the case for criminal prosecution and housing assistance will be terminated.

Payment Procedures for Program Fraud

Families who commit program fraud or untimely reporting of increases in income will be subject to the following procedures:

The duration of the agreement will not exceed the duration of the violation.

The minimum monthly payment will be \$25.00.

The amount of the monthly payment will be determined in accordance with the family's current income, but not less than \$50.00.

16.III.D. WRITING OFF DEBTS

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than six (6) months old.
- A determination is made that the debtor is judgment proof.
- A debtor is deceased

- The debtor is confined to an institution indefinitely or for more than two (2) years.
- The amount is less than \$25.00 and the debtor cannot be located.

Although a debt may be written off, records are kept indefinitely when a resident leaves owing money. Any past debt must be paid prior to being rehoused by MHRA.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

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 PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

MHRA's performance is based on a combination of four indicators:

- Physical condition of MHRA's properties.
- Financial condition of MHRA properties.
- Management operations of MHRA properties
- Capital Funds

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

MHRA will 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 designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

MHRA 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, MHRA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

16-V.B. RECORD RETENTION

MHRA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

Notice PIH 2014-20 requires MHRA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

MHRA must keep confidential records of all emergency transfer requested under MHRA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

MHRA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

In addition, MHRA will keep the following records for at least three 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
- Documentation supporting the establishment of utility allowances and surcharges
Documentation related to PHAS
- Accounts and other records supporting PHA budget and financial statements for the program
- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule
- Confidential records of all emergency transfers related to VAWA requested under MHRA's Emergency Transfer Plan and the outcomes of such requests
- Other records as determined by MHRA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

MHRA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized MHRA staff.

MHRA 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 MHRA may release the information collected.

Upfront Income Verification (UIV) Records

MHRA is required to adhere to the security procedures contained in the HUD issued document, Enterprise Income Verification (EIV) System, and Security Procedures for Upfront Income Verification (UIV) data.

Criminal Records

MHRA may only disclose the criminal conviction records which MHRA receives from a law enforcement agency to officers or employees of MHRA, or to authorized representatives of MHRA who have a job-related need to have access to the information [24 CFR 5.903(e)].

MHRA implemented a system of records management that ensures that any criminal record received by MHRA 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 MHRA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

MHRA has implemented a system of records management that ensures that any sex offender registration information received by MHRA 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 MHRA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by MHRA other than under 24 CFR 5.905.

Medical/Disability Records

MHRA is not permitted to inquire about the nature or extent of a person's disability. MHRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MHRA receives a verification document that provides such information, MHRA should not place this information in the tenant file. MHRA should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and MHRA's policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]

MHRA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

MHRA will report the name and address of any child identified as having an elevated blood lead level (EBLL) to the public health department within five business days.

MHRA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

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

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and MHRA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility"; Chapter 5, "Occupancy Standards and Unit Offers"; Chapter 8, "Leasing and Inspections"; Chapter 12, "Transfer Policy"; and Chapter 13, "Lease Terminations".

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

In order to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

MHRA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380).
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.
- A copy of MHRA's emergency transfer plan.
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383.
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800- 787-3224 (TTY).
- Contact information for local victim advocacy groups or service providers.

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

MHRA is required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

MHRA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382).

MHRA will provide all applicants with information about VAWA at the time they request an application for housing assistance. MHRA will also include such information in all notices of denial of assistance (see section 3-III.F).

MHRA will provide all tenants with information about VAWA at the time of admission and at annual reexamination. MHRA will also include such information in all lease termination notices.

Whenever MHRA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. MHRA may decide not to send mail regarding VAWA protections to the victim's unit if MHRA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, MHRA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

MHRA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

If presented with conflicting certification documents from members of the same household, MHRA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD

guidance on how such determinations should be made. When requesting third-party documents, MHRA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If MHRA does not receive third-party documentation within the required timeframe (and any extensions) MHRA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, MHRA will hold separate hearings for the applicants or tenants.

MHRA must honor any court orders issued to protect the victim or to address the distribution of property.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

MHRA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, MHRA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as MHRA may allow, MHRA may deny relief for protection under VAWA.

16-VI.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to MHRA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that MHRA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MHRA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380
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Manchester Housing and Redevelopment Authority

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **Manchester Housing and Redevelopment Authority's Public Housing, Low Income Housing Tax Credit (LIHTC) and Housing Choice Voucher (HCV)** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under **Public Housing, LIHTC or HCV Program**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under **Public Housing, LIHTC or HCV Program**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **Public Housing, LIHTC or HCV Program** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

MHRA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If MHRA chooses to remove the abuser or perpetrator, MHRA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, MHRA must allow the tenant who is or has been a victim and other household members to

remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, MHRA must follow Federal, State, and local eviction procedures. In order to divide a lease, MHRA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, MHRA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, MHRA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, MHRA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.**
If MHRA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, MHRA may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** MHRA may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

MHRA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

MHRA's emergency transfer plan provides further information on emergency transfers, and MHRA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

MHRA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from MHRA must be in writing, and MHRA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. MHRA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to MHRA as documentation. It is your choice which of the following to submit if MHRA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by MHRA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that MHRA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, MHRA does not have to provide you with the protections contained in this notice.

If MHRA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), MHRA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, MHRA does not have to provide you with the protections contained in this notice.

Confidentiality

MHRA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

MHRA must not allow any individual administering assistance or other services on behalf of MHRA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

MHRA must not enter your information into any shared database or disclose your information to any other entity or individual. MHRA, however, may disclose the information provided if:

- You give written permission to MHRA to release the information on a time limited basis.
- MHRA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires MHRA to release the information.

VAWA does not limit the MHRA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, MHRA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if MHRA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If MHRA can demonstrate the above, MHRA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report your PHA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, MHRA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact MHRA at 624-2100 to be connected with a staff member to assist you.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **The Woman's Crisis Center/YWCA at (603)668-2299. You may also contact the Manchester Police Department at (603)668-8711.**

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **The Woman's Crisis Center/YWCA at (603)668-2200. You may also contact The Manchester Police Department at (603)668-8711.**

Victims of stalking seeking help may contact **The Woman's Crisis Center/YWCA at (603)668-2200. You may also contact The Manchester police Department at (603)668-8711.**

Attachment: Certification form HUD-5382

I do hereby certify that I have received a copy of this notice: **(All adult household members to sign)**

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

**EXHIBIT 16-2: SAMPLE CERTIFICATION OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

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

1. Date the written request is received by victim: _____

2. Name of victim: _____

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

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

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

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: SAMPLE EMERGENCY TRANSFER REQUEST FOR
CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT OR STALKING**

**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____
2. Your name (if different from victim's) _____
3. Name(s) of other family member(s) listed on the lease: _____
4. Name(s) of other family member(s) who would transfer with the victim: _____
5. Address of location from which the victim seeks to transfer: _____
6. Address or phone number for contacting the victim: _____
7. Name of the accused perpetrator (if known and can be safely disclosed): _____
8. Relationship of the accused perpetrator to the victim: _____
9. Date(s), Time(s) and location(s) of incident(s): _____
10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

-
12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

HA	Housing authority or housing agency
HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets*.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

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

Ceiling rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children 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.

Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

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

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. 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.

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set at no less than 80 percent of the applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency*.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities*.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minimum rent. An amount established by the PHA of zero to \$50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Non-citizen. A person who is neither a citizen nor national of the United States.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 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.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family. A family residing in public housing:

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

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD. **Secretary.** The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.