

# Memphis Housing Authority Admissions and Continued Occupancy

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Resolution No. 4718



## MEMPHIS HOUSING AUTHORITY

*"Striving For Excellence and Nothing Less"*

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# CHAPTER 1 – Mission Statement, Fair Housing and Nondiscrimination Requirements

This Policy is established in order that Memphis Housing Authority (MHA) will meet its responsibilities pursuant to the United States Housing Act of 1937, as amended, Title VI of the Civil Rights Act of 1964 and all other civil rights requirements, regulations promulgated by the U. S. Department of Housing and Urban Development (HUD), the Annual Contributions Contract between the Housing Authority and HUD, and State and local laws, with respect to admission and occupancy of the Low Rent Public Housing Program.

This Policy governs admission and occupancy of Public Housing administered by the Housing Authority of Memphis Housing Authority hereafter called MHA. It is the intent of MHA to ensure decent, safe, and sanitary housing for families of limited income in all Public Housing units owned or operated by MHA under the United States Housing Act of 1937, as amended. It is the intent of MHA to provide a suitable living environment which fosters economic and social diversity and upward mobility.

MHA will periodically review this Policy to assure compliance with housing legislation and civil rights requirements. MHA's Chief Executive Officer, on behalf of MHA, can make any necessary revisions to this ACOP, and Public Housing Dwelling Lease (Lease), as may be required by regulatory, statutory, court order or internal policy that occurs before approval of the next presentation of the Public Housing Agency (PHA) Plan, which occurs annually.

## 1.1 MHA Mission

Memphis Housing Authority is dedicated to excellence in providing quality, affordable, and safe housing to eligible persons consistent with community needs. We foster effective and creative partnerships to maximize opportunities that improve the economic and personal well-being of the people that we serve. Our agency conducts its business in an efficient, professional, and ethical manner without discrimination.

### 1.1.1 Public Housing Programs

MHA is a public housing agency as defined in Section 35(f) of the United States Housing Act of 1937 and is the local governmental entity responsible for establishing affordable housing programs in Shelby County a political subdivision of the State of Tennessee. These programs include federally assisted housing programs that are administered through MHA's housing department, the MHA or its successor agency or department. Although MHA has responsibility for all day-to-day operations of the Public Housing programs, revisions to this ACOP requires approval from the MHA Board of Commissioners (the Board) and/or other authorized MHA officials.

The administration of the Public Housing programs shall comply with all applicable Federal, State and local law, Public Housing regulations, handbooks, and policies promulgated by HUD, and other federal laws including: The United States Housing Act of 1937, as amended, the Fair Housing Act, as amended, the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and Section 3 of the Housing and Urban Development Act of 1968, as amended.

### 1.1.2 Mixed Finance Developments

From time to time, MHA has and may continue to engage in mixed-finance development, which includes construction of new public housing and rehabilitation of existing MHA-owned public housing, as authorized by 24 CFR § 905.604, and other applicable laws and regulations. MHA-owned public housing properties may be leased to private developers through a long-term ground lease and other applicable mixed-finance

agreements and documents.

The properties would then be managed by these private developers, or entities, rather than MHA. Notwithstanding any contrary provision within this ACOP, MHA may delegate certain admissions and occupancy functions as discussed within the ACOP to entities and/or managers of those mixed-finance developments; provided, however, that such admissions and occupancy functions must be performed in accordance with this ACOP and applicable public housing requirements (including any deviations from the ACOP as permitted hereunder, as set forth in this section). Such delegation does not relieve MHA from ultimate responsibility with respect to the foregoing.

MHA acknowledges that such mixed-finance developments may be subject to federal Tax Credit Requirements. For purposes of this Policy, Tax Credit Requirements shall mean all matters required by Section 42 of the Internal Revenue Code of 1986 and regulations thereunder (Section 42) or any agreement with a condition of receipt of tax credits, whether such requirement is explicitly stated in Section 42.

To facilitate compliance with Tax Credit Requirements, this ACOP shall be deemed amended with respect to any mixed finance development to conform to any provision herein to applicable Tax Credit Requirements, unless such policies are otherwise required by applicable public housing requirements. Examples of policies that may be different than what is set forth in the ACOP but that are nevertheless permissible under this section include, but are not limited to:

- The requirement for annual re-examinations (to the extent required by Tax Credit Requirements) and addendums to the tenant lease to conform with Tax Credit Requirements; and
- Different income limits, income tiering requirements and rent limits consistent with what is permissible or required in accordance with Tax Credit Requirements.

Under this section, the entity will carry out screening and eligibility determinations with respect to such Tax Credit Requirements, including determinations related to transfers of new admissions from other public housing developments, new admissions, and continued eligibility of existing residents. Notwithstanding anything herein to the contrary, any public housing resident who is eligible under applicable public housing requirements, but not eligible under Tax Credit Requirements shall be referred to MHA by the Entity and may be re-housed by MHA in accordance with the transfer provisions set forth in the ACOP. All MHA mandated eligibility requirements must also be met by the applicant.

MHA further acknowledges that certain terms or requirements pertaining to the public housing units may be negotiated between MHA and the entity of each mixed-finance development, such as income tiers and transformation remedies, and effectuated through the execution of the Declaration of Trust and Restrictive Covenants, the Regulatory and Operating Agreement, the Mixed Finance Annual Contributions Contract (ACC) Amendment and applicable management documents. Provided, however, that notwithstanding anything contained in those documents to the contrary, the applicable public housing requirements shall control.

As used herewith, the term “applicable public housing requirements” shall mean the following: the U.S. Housing Act of 1937, HUD regulations thereunder (and to the extent applicable, any HUD- approved waivers of regulatory requirements); any other federal laws, regulations, notices and Executive Orders pertaining to public housing; the ACC between HUD and MHA (as amended by Mixed-Finance Amendments), this ACOP, and

applicable tax credit management plans and agreements as those requirements may be waived or amended from time to time.

### 1.1.3 Location and Office Hours

This ACOP is a supportive document to MHA's Public Housing Agency (PHA) Plan. It shall be available for public review during regular office hours at its main administrative office located at 700 Adams Avenue, and at the Public Housing Site Offices and on our website. The office is open on Monday – Friday, 8:00am-5:00pm. Applications will also be accepted via email or electronic portal (if available to your locality).

### 1.1.3 Posting Policies, Rules, and Regulations at Housing Developments

The following documents shall be available in the waiting area of every housing development management office, and/or posted on a large bulletin board:

- Admission and Continued Occupancy Policies (ACOP)
- Applicant Selection and Assignment Plan
- Utility allowances
- Public Housing Dwelling Lease
- Current schedule of routine maintenance and other charges
- Grievance and Appeal Policy
- Fair Housing poster
- "Equal Opportunity in Employment is the Law" poster.
- Emergency telephone numbers for after hours and weekends
- Reasonable Accommodation Policies and Procedures document
- PHA Plan

## 1.2 Fair Housing

It is the policy of MHA to fully comply with all Federal, State, and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. MHA shall affirmatively further fair housing in the administration of its public housing program. MHA will display the Fair Housing poster at MHA central office and, public housing sites.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under MHA's programs.

No inquiries shall be made about a person's sexual orientation or gender identity. However, MHA may inquire about a person's sex to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD's 50058.

To further its commitment to full compliance with applicable Civil Rights laws, MHA will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the Housing Authority office. In addition, all written information

and advertisements will contain the appropriate Equal Opportunity language and logo.

MHA will assist any family that believes they have suffered illegal discrimination by providing the family with copies of the appropriate housing discrimination forms. MHA will also assist them in completing the forms if requested and will provide them with the address of the nearest HUD office of Fair Housing and Equal Opportunity.

MHA will keep records of all complaints, investigations, notices, and corrective actions for five years.

#### 1.2.1 Complying with Civil Rights Laws

It is the policy of MHA to comply with all Federal, State, and local non-discrimination laws, rules and regulations governing fair housing and equal opportunity in housing and employment now in effect and subsequently enacted, including, but not limited to:

- [Title VI of the Civil Rights Act of 1964](#), which forbids discrimination on the basis of race, color, religion, national origin, or sex.
- [Title VIII of the Civil Rights Act of 1968](#) (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination
- [Executive Order 11063](#), which prohibits discrimination in federally, funded housing.
- [Section 504 of the Rehabilitation Action of 1973](#), which describes specific housing rights of persons with disabilities
- [Age Discrimination Act of 1975](#) which prohibits discrimination based on age in programs or activities that receive federal financial assistance
- [Title II of the Americans with Disabilities Act](#), otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units)
- [Violence Against Women Reauthorization Act 2013](#) (VAWA) which provides housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- [Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity](#), also known as the “Equal Access Rule” with clarification in PIH 2014-20.
- Any applicable State laws or local ordinances that may apply, including those pertaining to Fair Housing or any legislation protecting the individual rights of residents, applicants, or staff, which may be subsequently enacted.

MHA’s housing programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. MHA will not inquire about the sexual orientation or gender identity of an applicant or participant for purposes of determining eligibility or otherwise making such housing available. However, MHA may inquire about a person’s sex to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD’s 50058. MHA will not discriminate because of race, color, marital status, sexual orientation, gender identity, national or ethnic origin or ancestry, sex, religion, age, familial status, source of income, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities.

Applicants or participant families who believe that they have been subject to unlawful discrimination may notify MHA either orally or in writing. Notifications made orally will be documented in writing by MHA staff including: complaint description, applicant/participant name, date, and MHA staff taking complaint. MHA will make every

reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action, keeping appropriate documentation of complaints, investigations, notices, and corrective actions. MHA will provide written notice of receipt of the complaint to those alleged to have violated the rule and inform the complainant that such notice was made. MHA will attempt to remedy discrimination complaints made against MHA through the existing informal review, informal hearing, or other reconsideration, and will notify those alleged and the complainant of its findings, corrective actions or why corrective action is not warranted. In addition to internal procedures to remedy allegations of discrimination, MHA may provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

**LOCAL FHEO FIELD OFFICE:**

Atlanta Regional Office of FHEO  
U.S. Department of Housing and Urban Development  
Five Points Plaza  
40 Marietta Street, 16th Floor  
Atlanta, Georgia 30303-2806  
  
(404) 331-5140  
(800) 440-8091  
TTY (404) 730-2654

### **1.3 Reasonable Accommodations**

MHA, as a public agency that provides low rent housing to eligible families, has a legal obligation to provide "reasonable accommodations" to applicants and residents if they or any family members have a disability.

A reasonable accommodation is some modification or change MHA can make to its apartments, buildings, or methods and procedures that will assist an otherwise eligible applicant with a disability to take full advantage of and use MHA's programs, including those that are operated by other agencies in MHA-owned public space.

An accommodation is not reasonable if it:

- Causes an undue financial and administrative burden; or
- Represents a fundamental alteration in MHA's program.

MHA will deny reasonable accommodation requests which would require a fundamental alteration in its programs, services, or activities, or which would create an undue financial and administrative burden, or which are neither reasonable nor necessary. Determining a requested accommodation to be a fundamental alteration does not eliminate MHA's compliance responsibilities. If a requested action would result in a fundamental alteration or undue financial and administrative burden, MHA may take another action that would not result in a fundamental alteration but would nevertheless ensure that the person would have an equal opportunity to receive the program benefits and services. MHA's determinations with respect to fundamental alterations will be made on a case- by-case basis.

Subject to the undue burdens and fundamental alterations tests, MHA will correct physical situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take

full advantage of MHA's housing program and non-housing programs, in accordance with Section 504 and the Fair Housing Amendments Act of 1988, MHA shall comply with all requirements and prohibitions in applicable law.

Facilities and programs used by applicants and residents shall be accessible to persons in wheelchairs, persons with sensory impairments and other persons with disabilities. Application and management offices, hearing rooms, community centers, day care centers, laundry facilities, craft, and game rooms, etc. (to the extent that MHA has such facilities) will be usable by residents with a full range of disabilities. If MHA offers such facilities, and none is accessible, some will be made so, subject to the undue financial and administrative burden test.

Documents and procedures used by applicants and residents will be accessible for those with vision, hearing, or other sensory impairments. Also, all documents will be written simply and clearly to enable applicants with learning or cognitive disabilities to understand as much as possible.

#### 1.3.1 Examples of Reasonable Accommodations

- Making alterations to an MHA apartment to make it fully accessible so it could be used by a person in a wheelchair;
- Transferring a resident, at MHA's expense, who needs a fully accessible unit from an apartment that cannot be made accessible to an apartment that is accessible;
- Widening the door of a community room or public restroom so a person in a wheelchair may use the facility;
- Adding or altering apartment or building features so they may be used by a family member with a disability, including but not limited to;
  - Installing strobe-type flashing light smoke detectors and flashing light/doorbell for a family with a hearing-impaired member
  - Adding structural grab bars in the bathroom
  - Changing the doorknobs to lever-type door handles
  - Installing a magnifier over the thermostat
  - Switching the bathtub to a shower
  - Lowering the peephole on the door
- Permitting a family to have an assistance animal (medically- verified need for and not subject to MHA Pet Policy) for a family member with a disability. 24 CFR § 960.705 which states: Animals that assist, support, or provide service to persons with disabilities.
  - PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in §960.703, and such animals that visit these developments. Nothing in this subpart:
    - ❖ Limits or impairs the rights of persons with disabilities;
    - ❖ Authorizes PHAs to limit or impair the rights of persons with disabilities; or
    - ❖ Affects any authority that PHAs may have to regulate service animals that assist, support, or provide service to persons with disabilities, under Federal, State, or local law.

- Making sure that MHA processes are understandable to applicants and residents with sensory or cognitive impairments.
- Making large type documents, Braille documents, cassettes, CDs, or a reader available to an applicant or resident with a vision impairment during interviews or meetings with MHA staff.
- Using personal visits, interviews, or telephone calls to convey information to an applicant or resident who cannot read.
- Making a sign language interpreter available to an applicant with a hearing impairment during interviews or meetings with MHA staff.
- Permitting an applicant or resident to be accompanied or represented by a family member, friend or advocate at all meetings and interviews with MHA if the individual desires such representation.
- Permitting an outside agency or individual to assist an applicant with a disability to meet MHA's applicant screening criteria.
- Permitting rent payments and required communications to be mailed rather than delivered in person.
- Providing another housing offer if an applicant, resident, or program participant can demonstrate good cause that the rejection of the initial housing offer, for example, it was because of the disability of an applicant, resident, or program participant's household member.
- Providing auxiliary aids, such as pencil and paper for those with speech difficulties, Telecommunication Device for the Deaf (TDD), Assisted Listening Device (ALD), a qualified sign language interpreter, or a reader, when necessary for effective communication between MHA and an applicant, resident, or program participant.
- Considering the impact of "mitigating circumstances" regarding the rejection of an applicant for housing or when terminating the lease or terminating housing assistance to an applicant, resident, or program participant. If the applicant/resident/program participant requests such consideration or if more information is required, MHA will ask the applicant/resident/program participant to verify:
  - that the applicant/resident/program participant has a disability;
  - that the specific situation(s) that led to application rejection or lease/housing assistance termination is/are caused by or occurred because of the disability or that the disability;
  - substantially contributes to the specific situation(s) that led to application rejection or lease/housing assistance termination;
  - that the proposed accommodation can reasonably be expected to prevent the recurrence of the situation(s) that led to application rejection or lease/housing assistance termination.
- Reinstating applications of persons with disabilities, if the reason they did not submit their applications or respond to housing offers in the required time was reasonably related to their disability. Decisions will be made on a case-by-case basis, considering whether, because of the person's disability, the person was prevented from responding in time and considering reasons for reinstating of applications normally allowed for people without disabilities.
- Reinstating applications of persons with disabilities, if the reason they did not submit their applications or respond to housing offers in the required time was failure on the part of MHA to provide effective communication.
- Allowing a live-in aide to reside in an appropriately sized dwelling unit.

To meet the standard of HUD's definition of "Qualified Individual with a Disability" a family head or other member with a disability must still be able to meet essential obligations of tenancy. They must be able (24 CFR § 8.3):

- to pay rent and other charges (e.g., utility bills) as required by the Lease in a timely manner.



- to care for and avoid damaging the apartment and common areas; to use facilities and equipment in a reasonable way.
- to create no health, or safety hazards, and to report maintenance needs.
- not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others.
- not to engage in prohibited criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity.
- to comply with necessary and reasonable rules and program requirements of HUD and MHA

There is no requirement that they be able to do these things without assistance.

If an applicant or resident family member needs assistance with one of the essential obligations of tenancy, MHA will, as a reasonable accommodation, make a referral to an individual or agency that can provide such assistance.

If an applicant or resident receives a referral to an agency or individual who can assist the applicant or resident with complying with the essential obligations of tenancy, the applicant or resident is not obligated to accept the service, but if refusing service results in a Lease violation, MHA may terminate the Lease.

An applicant or resident family with a member who has a disability and needs or wants a reasonable accommodation may request it at any time. Any request that requires a certified verification must be submitted directly to MHA by the qualified person making the certification.

If an applicant or resident would prefer not to discuss his/her disability with MHA, that is his/her right.

### 1.3.2 Live-In Aides

A live-in aide is a person eighteen (18) years of age or older who resides with one or more elderly (at least sixty-two (62) years of age), near-elderly (at least fifty (50) years of age but below sixty-two (62) years of age), or disabled (see the definition of a person with disabilities on page 4) person(s) and who is determined to be essential to the care and well-being of the person; is not obligated for the support of the person; and would not be living in the unit except to provide the necessary supportive services. A relative may be considered a live-in aide but must meet all the criteria listed herein. Persons with children or spouses may, on a case-by-case basis, be allowed to serve as Live-in Aides.

Requests for live-in aides are subject to the foregoing policies. The two forms discussed below replace the Reasonable Accommodation Request and Reasonable Accommodation Verification forms (respectively) for purposes of requesting a live-in aide as a reasonable accommodation. The Live-in Aide Agreement is the form on which:

- The head of household shall request the live-in aide. The requestor may make this request for themselves, or for a household member.
- The requestor provides the Property Manager with information related to the request and the live-in aide.
- The requestor shall provide the Property Manager with the name and contact information of the verification source from whom the requestor is obtaining verifications and other information essential for obtaining a live-in aide.



The Live-in Aide Verification Form is the form on which:

- The verification source verifies that the person for whom the Live-in Aide is being requested qualifies for, and requires, the live-in aide.

The Property Manager submits the Live-in Aide Verification form to the Asset Manager. The Asset Manager may approve a written request for a live-in aide upon receipt of verification documentation including, but not limited to, completed Live-in Aide Agreement and Live-in Aide Verification forms. The Asset Manager will inform the requestor in writing of the Approval/Denial of Reasonable Accommodation Request.

The live-in aide may live in the unit solely to care for the family member and qualifies for occupancy only for as long as the individual requires the supportive services and is living in the unit. MHA shall deny occupancy of the unit to the live-in aide after the tenant, resident, or program participant, for whatever reason, is no longer living in the unit.

A relative may be considered as a live-in aide but must meet all the criteria outlined in this section and must be able to provide care for the family member. The tenant and the live-in aide shall acknowledge that the live-in aide does not have any right to the unit and does not qualify for continued occupancy as a remaining family member by signing the Live-in Aide Agreement (which shall become an addendum to the tenant's/resident's lease).

The Asset Manager may deny the live-in aide request of a person who does not meet the admission criteria described in the ACOP. The process by which applicants, residents and participants may appeal a denial of a live-in aide request, or any other adverse decisions related to disabilities, is described in the Reasonable Accommodation Grievances and Appeals section below.

#### 1.3.3 Making a Reasonable Accommodation Request

Applicants, residents, and program participants may make a reasonable accommodation request at any time. If the applicant/resident/program participant is unable to complete any of the following reasonable accommodation forms (Request Forms): Reasonable Accommodation Request, Live-in Aide Agreement, or Release of Disability-Related Special Needs in Case of Emergency Evacuation (Public Housing Only) forms, the request will still be considered.

If the applicant/resident/program participant is unable to complete any of the Request Forms, the Property Manager, or other designated employee, must offer assistance and, upon consulting with the applicant, resident or program participant, complete the Request Forms to the best of their ability for record-keeping purposes. The designated employee must review the completed Request Forms, as appropriate, with the applicant, resident, or program participant. The designated employee must ensure that all reasonable accommodation requests are written on the applicable forms, no matter how the requests are communicated.

The designated employee shall not give any assurances to the applicant, resident, or program participant that the request for reasonable accommodation will be granted or denied, but shall convey to the applicant, resident, or program participant that the requests will be reviewed, and a final determination will be made at a later date described within this policy. If the accommodation is reasonable, MHA will consider the request.

#### 1.3.4 Application and Waiting List

The application and/or application instruction forms for all Public Housing programs shall include the following:

- Notice that if the applicant is unable to complete the application due to disability, or needs the form in an alternate format, they may request such assistance.

- Notice of the way the applicant should request the required assistance as described in the item above.
- A question prompting the applicant to indicate whether they or a member of the household has a disability.
- A question prompting the applicant to indicate any special features a household member requires in a rental unit because of disabilities.

In Public Housing programs, priority for a vacant unit with accessibility features will be given first to current residents who require those features, and then to applicants requiring the same. If there is no other resident or applicant on the waiting list needing units with accessibility features, MHA may house the next eligible, non-disabled applicant in the unit. MHA will also inform the applicant that pursuant to MHA's policy and MHA's Public Housing Lease, if another resident or eligible applicant requires the accessible features of the accessible unit, and another unit is available, then the non-disabled family/individual residing in the unit with accessible features must transfer to another unit within fifteen (15) days receipt of notice to move.

Notwithstanding MHA's policies, residents who require a transfer as a reasonable accommodation are not prohibited from transferring within the first year of residency.

In addition, MHA may grant an exception to its Occupancy Policies (set forth in the Public Housing Admissions and Continued Occupancy Policy (ACOP)) by providing a larger unit as a reasonable accommodation to a family member with disabilities.

MHA may allow an applicant or program participant family to have an extra bedroom to accommodate a family member who requires certain medical equipment or for other verifiable reasons. The need for such equipment must be verified by a qualified health care professional as a necessary reasonable accommodation. MHA may grant reasonable accommodations by reinstating applicants with disabilities, who fail to respond within the required time frame to inquiries regarding updating the waiting list, if the reason they did not respond is reasonably related to their disability. MHA may grant reasonable accommodations by reinstating applicants with disabilities for other reasons on a case-by-case basis.

#### 1.3.5 Notification to Applicants, Residents and Program Participants

Although the process for requesting a reasonable accommodation is standardized, each request will be treated uniquely. The results will be unique to the individual, the property, and/or circumstances involved. Whenever possible, reasonable accommodation decisions will be made in a timely manner, and both denials and agreements to make accommodations will be documented in writing. If applicable, forms and notifications will be provided to the applicants, residents, or program participants in an accessible format (such as Braille, large print, or audio tape) upon request.

#### 1.3.6 Reasonable Accommodation Grievances and Appeals

If an applicant, resident, or program participant disagrees with a reasonable accommodation decision, they may request a Reasonable Accommodation Grievance and Appeal Hearing by submitting a request which may be written, oral or by any other means of communication accessible by the requestor. The request should be submitted to MHA's Asset Management Department.

MHA's Reasonable Accommodation Grievance and Appeal Hearing Committee shall convene the grievance or appeal hearing within thirty (30) business days of the receipt date of the request. The Executive Director or designee shall appoint a volunteer pool of impartial persons to sit as hearing officer and/or hearing officers to

hear resident grievances. No MHA employee who was involved in the initial decision(s) regarding a reasonable accommodation request that is the subject of a hearing shall sit on MHA's Reasonable Accommodation Grievance and Appeal Hearing Committee during the hearing related to that request.

The applicant, resident or program participant may bring documents, witnesses and/or representatives to the Reasonable Accommodation Grievance and Appeal Hearing in order to contest the manner in which a reasonable accommodation is proposed to be (or was) implemented, the denial of a reasonable accommodation request, or any other applicable disability-related decision.

Should the requestor wish to contest the Reasonable Accommodation Grievance and Appeal Hearing Committee's decision, they may do so by following the United States Department of Housing and Urban Development Grievance Process.

#### 1.3.7 Discontinuation of Reasonable Accommodation

MHA will not change or discontinue a reasonable accommodation, or a particular method of providing such accommodation, without giving notice. Notice of the change or discontinuation of a reasonable accommodation will be given to the applicant, resident or program participant with disabilities and it will include a request for the resident to indicate if the change would not meet their needs, and notification that the resident has the right to appeal the decision to change or discontinue the accommodation.

#### 1.3.8 Transfers

The reasonable accommodation policies mentioned throughout this document apply to transfers based on a request for reasonable accommodation. Transfers based on a request for reasonable accommodation in Public Housing programs shall be documented in the same manner as other reasonable accommodation requests are documented (e.g., a Reasonable Accommodation Request form must be filled out). The only additional requirement is that, in addition to the aforementioned, the Public Housing requestor must complete and submit a Request for Transfer form.

In Public Housing, MHA shall not require, or recommend as an alternative, that a resident with a disability must accept a transfer instead of providing some other reasonable accommodation. However, if a public housing resident with a disability requests dwelling unit modifications that involve structural changes, including, but not limited to widening entrances, rooms, or hallways, and there is a vacant, comparable, appropriately-sized UFAS-compliant unit in that resident's development, an adjacent development, or a development to which the resident has expressed a willingness to move, MHA may offer to transfer the resident to the vacant unit in their development or adjacent development instead of providing structural modifications. However, if that resident rejects the offered transfer, MHA shall make modifications to the resident's unit unless doing so would be structurally impracticable or would result in an undue financial and administrative burden or would result in a fundamental alteration to an MHA program, service or activity. MHA shall inform applicants, residents, and participants whether their transfers, structural modifications, and all other reasonable accommodations are granted in writing.

#### 1.3.9 Emergency Evacuations

Public Housing program applicants (who have received public housing offers) and residents with disabilities must ultimately be responsible for their own safety. Thus, they may choose not to live above the ground floor because of possible inability to escape a fire. They must, however, be allowed to decide whether living in an upper-floor dwelling unit outweighs whatever safety concerns may exist.

At move-in orientation and during recertification, the Property Manager or designee informs Public Housing program residents that with their consent, the Property Manager will provide information to the fire and police departments that identifies residents who will have special needs in case of an emergency evacuation. The Property Manager will only share this information with these parties if consent is given.

The Property Manager or designee will provide each resident with a copy of the Release of Disability-Related Special Needs in Case of Emergency Evacuation (Release) form at move-in and recertification. The Property Manager will maintain these forms confidentially in the development's office files. These forms will also be maintained confidentially at the MHA Central Office in case the development offices are inaccessible due to an emergency.

In emergency situations, and only insofar as is reasonably feasible, Property Managers or designees will inform fire and/or police departments as to which residents have special emergency evacuations needs.

Buildings with more than four units or with units above the first floor shall have evacuation plans identifying escape routes and procedures to be followed in case of emergency, including procedures for notifying persons who are deaf or blind and for evacuating persons who cannot climb stairs or may be disoriented. It is recommended that the evacuation plan be worked out with the local fire department.

## **1.4 Affirmative Marketing**

MHA's marketing plan ensures inclusion on its waiting list of all people without regard to race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, ancestry, status as a victim of domestic violence, dating violence, sexual assault, or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy, or source of income.

The opening of the waiting list will be advertised through local print media, online sites, and public agencies.

It is the policy of MHA to conduct outreach as needed to maintain an adequate application pool representative of the eligible population in the area. All marketing efforts will include outreach to those least likely to apply. [24 CFR § 960.103(b)] which states:

*§ 960.103 Equal opportunity requirements and protection for victims of domestic violence, dating violence, sexual assault, or stalking.*

*MHA must administer its public housing program in accordance with all applicable equal opportunity requirements imposed by contract or federal law, including the authorities cited in § 5.105(a) of this title.*

*MHA must affirmatively further fair housing in the administration of its public housing program.*

*MHA must submit signed equal opportunity certifications to HUD in accordance with § 903.7(o) of this title, including certification that the PHA will affirmatively further fair housing.*

*MHA must apply the requirements in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).*

*Outreach efforts will take into consideration:*

- *The number of vacant units*
- *Availability of units through turnover*
- *Waiting List Characteristics*
- *Outreach to Very-Low Income Families*

*MHA will periodically assess the factors in order to determine the need for and scope of any marketing efforts.*

*All marketing and informational materials will:*

- *Comply with the Fair Housing Act requirements with respect to the Equal Housing Opportunity logo and use of nondiscriminatory language [24 CFR § 109.30 (a)];*
- *Describe the housing units, application process, Waiting List, priority system and eligibility accurately;*
- *Will be in plain language and will use more than strictly English language print media;*
- *Will target all agencies that serve and advocate for potential applicants;*
- *Will make clear who is eligible: low-income individuals and families; working and non-working people; as well as the elderly and disabled.*
- *Will make clear that it is MHA's responsibility to provide reasonable accommodations to people with disabilities.*

## **1.5 Privacy**

Memphis Housing Authority is strongly committed to protecting the privacy of people dealing with the agency to the greatest degree practical. There are numerous federal privacy laws, regulations, notices, and other requirements that the Housing Authority follows to the greatest degree practical. Details about these requirements are set forth in PIH Notice 2015-06 and any ensuing publications. The Housing Authority will educate all of its employees who have access to personally identifiable information (PII) and/or Sensitive Personally Identifiable Information about these requirements and expect them to appropriately manage and safeguard the information. Employees will also be trained on the proper disposition of said information.

## **1.6 Ethical Standards**

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of Memphis Housing Authority, this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

### **1.6.1 Conflict of Interest**

Neither MHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with any program in which any of the following classes of persons has any interest, direct or

indirect, during his or her tenure with MHA or for one year thereafter:

- Any present or former member or officer of the Housing Authority (except a participant commissioner);
- Any employee of the Housing Authority or any contractor, subcontractor or agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to Memphis Housing Authority's programs; or
- Any member of the Congress of the United States.

Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD. The Conflict-of-Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of MHA for good cause.

#### 1.6.2 Prohibition of Solicitation or Acceptance of Gifts

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive any gift regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in MHA's Personnel Policy or as determined by action of the Board of Commissioners.

## 1.7 Anti-Fraud Policy

MHA is fully committed to combating fraud in its public housing program. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading MHA. It results in the inappropriate expenditure of public housing funds and/or a violation of public housing requirements.

Although there are numerous different types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. MHA shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, MHA shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- Require the resident to immediately repay the amount in question;
- Require the resident to enter into a satisfactory repayment agreement as set forth in a previous section of this Policy;
- Terminate the resident's tenancy;
- Refer the case for criminal prosecution; or
- Take such other action as MHA deems appropriate.

## 1.8 Limited English Proficiency (LEP) Policy

It is the policy of MHA (MHA) to provide timely meaningful access for LEP persons to all agency programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All personnel will inform members of the

public that language assistance services are available free of charge to LEP persons, and that the agency will provide these services to them.”

Language interpretation services are offered to LEP persons for activities including, but not limited to the following:

- Eligibility Interview
- Voucher Briefing
- Rental Interview and Lease Signing
- Initial, Annual, and Interim Reexaminations
- Transfer and Resident Tenancy Application
- Reasonable Accommodation Requests
- Conferences, Informal Reviews and Hearings

In accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act, this policy establishes guidelines for providing language accessible services to individuals that are limited English Proficient and/or Deaf or Hard of Hearing.

#### 1.8.1 Definitions

- **Limited English Proficient Individual**  
Any individual whose primary language is not English, and has limited or no ability to speak, understand, read, or write English.
- **Interpretation**  
The process of orally rendering a spoken or signed communication from one language into another language.
- **Primary Language**  
The language that an individual communicates most effectively in.
- **Translation**  
Converting written text from one language into written text in another language.
- **Qualified Interpreter or Translator**  
A trained professional who is a neutral third party with the requisite language skills, experienced in interpretation or translation techniques, and knowledgeable in specialized content areas and technical terminology in order to effectively facilitate communication between two or more parties who do not share a common language.
- **Simultaneous Interpretation**  
The process of orally rendering one language into another language virtually at the same time that the speaker is speaking with only a very short lag time.
- **Consecutive Interpretation**  
The process of orally rendering one language into another language after the speaker has completed a statement or question and pauses. The interpreter then renders that statement into the other language.



- **Sight Translation**

The rendering of material written in one language, completely and accurately into spoken speech in another language.

- **Vital Documents**

Any materials that are essential to an individual's ability to access services provided by the organization or are required by law.

### 1.8.2 Language Data

MHA shall conduct an annual/biennial review of language use and need of organization and its service population. (Sources can include: intake, Census, American Community Survey, Department of Education, or the Office of Refugee Resettlement.)

### 1.8.2 Language Assistance Procedures

Staff at the initial point of contact will conduct an assessment for the need for language assistance and notify the individual of the right to an interpreter at no cost. Staff members who have subsequent contact will continue to assess the need for language assistance.

To assess the need for language assessment, staff should ask open ended questions, and avoid asking questions that would allow for yes or no responses. For example, asking: "how may I be of assistance?" instead of "do you need help?" The LEP individual or companion may also directly request for language assistance.

The LEP individual may speak more than one language or may have limited proficiency in a secondary language. Staff shall identify the primary language of the LEP individual, and work to provide language assistance in the primary language of the individual.

A Deaf individual may also be limited English proficient and not be proficient in American Sign Language. Staff shall work to identify the primary language of the Deaf individual and provide language assistance in the primary language of the individual.

### 1.8.3 Identifying Language

- Staff shall request the individual or companion identify the language of the LEP or Deaf individual.
- Staff may request bilingual/multilingual staff or volunteers to identify the primary language.
- Use in-person, video remote interpreters, or telephonic interpreters to identify the language.
- Use an "I speak" card or poster to identify the primary language.
- Staff should determine if the preferred mode of communication for a Deaf or Hard of Hearing individual is interpretation or Communication Access Realtime Translation (CART).

### 1.8.4 Procedures for Language Services

Bilingual/multilingual staff:

- MHA currently has a staff person that speaks both Tagalog (Filipino) and Spanish. Please contact the Director of Compliance and Training to schedule service for a client at 901-544-6402.

In-person Interpreters:

- Translation in the person's native language



Telephonic/video remote Interpreters:

- City of Memphis' Office of Multicultural Affairs: 125 N. Main, Memphis, TN, 901 636-6000.
- Refugee Empowerment Program: 258 North Merton Street, Memphis, TN 38112, [staff@repmemphis.org](mailto:staff@repmemphis.org), 901-500-3844 (will make available interpreters for those persons that request assistance).
- Deaf Connect of the Mid-South: 901-278-9307 (provides interpreters 24/7 for the hearing impaired).

#### 1.8.5 Translation of Vital Documents

MHA will make available vital forms and materials in the most frequently encountered languages associated with the following:

- Eligibility Interview
- Voucher Briefing
- Rental Interview and Lease Signing
- Initial, Annual, and Interim Reexaminations
- Transfer and Resident Tenancy Application
- Reasonable Accommodation Requests
- Conferences, Informal Reviews and Hearings

For other languages, staff should use an interpreter to sight translate the document into the individual's primary language. Written communication to the LEP individual should be translated into the primary language of the LEP individual.

#### 1.8.6 Notice of Language Services

Signage will be placed in visible locations notifying individuals of the right to request an interpreter at no cost to the individual. Signage will be translated into the languages most frequently encountered by the organization.

Staff at the initial point of contact, will notify individuals of their right to an interpreter at no cost.

#### 1.8.7 Prohibition Against Using Children as Interpreters

Staff are prohibited from using minor children to interpret, absent emergency circumstances. Clients shall be advised of client's right to an interpreter at no cost to the client.

#### 1.8.8 Interpreter and Translator Code of Ethics

##### **Accuracy**

Source-language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation, or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally bound terms which have no direct equivalent in English, or which may have more than one meaning. The register, style and tone of the source language should be conserved. Guessing should be avoided. Interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected as soon as possible.

**Impartiality and Conflicts of Interest**

Interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties. Interpreters and translators shall abstain from comment on matters in which they serve. Any real or potential conflict of interest shall be immediately disclosed to the Compliance and Training Director and all parties at 901-544-1102 or 544-6402 as soon as the interpreter or translator becomes aware of such conflict of interest.

**Confidentiality**

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter without authorization.

**Limitations of Practice**

Interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

**Protocol and Demeanor**

Interpreters shall conduct themselves in a manner consistent with the standards and protocol of MHA and shall perform their duties as unobtrusively as possible. Interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

**Maintenance and Improvement of Skills and Knowledge**

Interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

**Accurate Representation of Credentials**

Interpreters and translators shall accurately represent their certifications, accreditations, training, and pertinent experience.

**Impediments to Compliance**

Interpreters and translators shall bring to the MHA's attention any circumstance or condition that impedes full compliance with any Canon of this Code, including interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

**1.8.9 Staff Compliance**

Staff will receive training on the content of the language access policy; how to identify the need for language access services; working with an LEP and Deaf individuals; providing language accessible service in a culturally sensitive manner; working with an interpreter; and interpretation best practices.

**1.8.10 Internal Language Contact**

Resident Engagement Coordinator, please contact using 901-544-1102 or 901-544-1860.

#### 1.8.11 Monitoring and Assessment

Staff shall be responsible for monitoring compliance with the organizations language access policy.

MHA shall collect information on language use and need, including: primary language of clients; use and language of interpretation services; distribution of translated documents; frequency of contact with LEP or Deaf individuals seeking services; and referrals of LEP or Deaf individuals and the language of the referred LEP or Deaf individual.

MHA shall conduct an annual review on the effectiveness of the language access policy and make changes as needed.

#### 1.8.12 Complaint Process

A complaint regarding the denial of language accessible services, or regarding the quality of language accessible services, including interpreters or translated materials, may be made in person, or in writing. The complaint should specify the date, individuals involved, and the nature of the client (i.e., the interpreter was summarizing, or an LEP individual or Deaf individual was denied services because they did not bring their own interpreter). All complaints will be directed to the Compliance Department. The Compliance Department will notify the parties within 30 days upon receipt of the complaint of the outcome.

Staff will notify individuals of the complaint process. The complaint process will be included in the posted notification of the right to an interpreter.

## CHAPTER 2 – Eligibility and Denial of Assistance

### 2.1 Applications

Under no circumstances will anyone be denied the right to request or apply for housing unless MHA has publicly announced the temporary closing of all or part of the Waiting List.

Applications for programs offered by MHA may be submitted during open registration periods. The beginning and ending dates of the waiting list's open registration period will be advertised through a public notice in various media platforms including but not limited to the local newspapers, MHA website and social media outlets for reaching all segments of the community and providing notice.

A completed application form, signed or signed electronically by the Head, Co-Head or Spouse of the applicant family, will be obtained from all applicants seeking admission to housing.

Applications will be accepted online through MHA's website during the open registration period. If the application is submitted via electronic portal, an e-signature is considered valid.

If there is no waiting list, and upon receipt of the application, MHA staff will interview the applicant and explain the application, verification, and screening process. If there is a waiting list correspondence with the tenant will occur electronically or via mail informing the applicant of the process and anticipated time until a unit can be made available. The applicant will be informed that all changes to information on the family size, income, status, and address will need to be kept current during the waiting period.

The application package at a minimum will consists of:

- Application Form
- Personal declaration
- Applicant Certification
- Information Concerning Citizenship Verification
- Citizenship Declaration Form/Certification of Non-eligible Immigrant Status (if applicable)
- Authorization for Release of Information/Privacy Act Notice
- Criminal History Check Acknowledgment Form
- Waiting List Policy Statement
- "Things You Should Know" Brochure
- Applicable Verification Forms
- Community Service Policy/Exempt Forms
- Supplemental and Optional Contact Information for HUD- Assisted Housing Applicants (HUD- 92006)
- Eligibility Criteria - (required by state law)
- Debts Owed EIV, HUD-52675
- HUD 9886 Authorization for the Release of Information.

Each applicant moves up the waiting list in ranking number sequence and based on applicable admission preference and type and size of unit required.

At the initial visit, the family will complete and sign the application form and sign all certifications and releases. It is important at the first visit that enough information is obtained to make a preliminary determination of eligibility. The initial interview may be conducted via telephone, email or zoom.

MHA will work on the assumption that the facts certified by the applicant in the application are correct, although all those facts will be subject to verification later in the application process.

As soon as MHA has a completed, signed application form, the application will be marked with the date, time and income priority and immediately placed on the Waiting List, which is subdivided according to number of bedrooms and type (elderly/non-elderly). Every applicant who submits a completed, signed application form will immediately be placed on the Waiting List, regardless of whether or not all other application documents have been submitted and regardless of whether or not the applicant initially appears eligible.

Applications are nontransferable except under the following circumstances:

- In case of dissolution of marriage or family disputes, MHA will abide by the court's determination on whom shall assume the head of household on the application.
- If the head of an applicant household dies while the family is on the waiting list, and the family includes another adult, MHA will change the application to make the other adult the new applicant so long as the family reports the death within 30 days and requests that another adult family member be named the head.

#### 2.1.1 Preliminary Determination of Eligibility

Within approximately thirty (30) days following the interview, a preliminary review of the applicant's file will take place to check for apparent eligibility or ineligibility based on the statements made on the application and signed certifications.

A review of MHA's internal records will be made to determine if an applicant has participated in any of the programs administered by MHA or any other Housing Authority and left the program owing unpaid rent, damages, vacancy loss, or other charges. Such an applicant will not be determined eligible until all funds are repaid in full.

#### **Applicant Determined Preliminarily Ineligible:**

- An applicant who is determined to be ineligible because of information on the application (e.g., over income) or a record of a prior eviction from public housing or debts owing, will be notified in writing of the ineligibility. Notice will:
  - specify reasons why ineligible.
  - inform applicant that he or she has ten (10) days after receipt of this notice to request a hearing in writing.
  - if the only reason for denial is money owed to the MHA or another housing agency, inform applicant that he or she has fourteen (14) days to repay the debt or be removed from the waiting list.
- Applicant is removed from Waiting List.
- Once the decision to deny is made, the application will be filed and kept for three (3) years.

**Applicant Determined Eligible:**

- Eligible applicants will be notified in writing or by telephone, of the following:
  - that they have been placed on the Waiting List according to the date and time of their application.
  - an approximate date applicant is to be housed, determined to the best of MHA's ability.
  - that it is their responsibility to submit the rest of their documents, if applicable, within the next six (6) months or sooner if requested by MHA, as well as report any change in income priority status.
  - that they will receive notification from MHA when their name is close to the top of the Waiting List and final verifications are to be processed
  - that, if they do not hear from MHA by the end of the six (6) month period, it is their responsibility to contact MHA to update their information and express interest in remaining on the Waiting List. Otherwise, they will be dropped from the List unless they have, at initial application, requested assistance with communication as a reasonable accommodation of their disability. Such assistance in updating the Waiting List could include MHA contacting the applicant with a disability or a designated friend, relative or representative, rather than requiring the applicant to contact MHA.

The Waiting List will reflect for each application the following information and will be consistent with Title VI objectives and other requirements:

- the date and time of receipt; race and ethnicity of head of household
- Income priority status
- the determination by MHA as to preliminary eligibility or ineligibility
- date determined eligible or ineligible.
- the unit size(s) for which eligible
- the date, location, identification, and circumstances of each vacancy offered and accepted or denied.

**2.1.2 Timetable for Final Verifications**

If there are applicants on the Waiting List, final verification of all application information submitted by the family will be conducted no earlier than ninety (90) days prior to the estimated time the applicant will be offered a unit.

When an applicant is approximately within thirty (30) days of being at the top of the Waiting List, site staff will begin the applicant screening process, according to MHA's Screening Procedures.

If there is no one on the Waiting List, verifications and screening will begin immediately after all completed application paperwork has been submitted by the family.

**2.2 Eligibility for Admission**

It is MHA's policy to admit only qualified applicants. An applicant is qualified if he or she meets all of the following criteria:

- Is a family as defined in this Policy; A family includes, but is not limited to, regardless of actual or perceived sexual orientation, gender identity, or marital status, the following:
  - A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - A group of persons residing together, and such group includes, but is not limited to: a) 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, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age. It may include two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
- A near-elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 50 years of age but below the age of 62; or two or more persons, each of whom are between the ages of 50 and 62, living together; or one or more persons who are between the ages of 50 and 62 living with one or more live-in aides.
- A disabled family, which means a family whose head, co-head, spouse, or sole member, is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. i) A “person with disabilities” means a person who: (1) Has a disability as defined in 42 U.S.C. § 423(d)(1);
  - Has a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in 42 U.S.C. § 15002(8) (formerly codified in 42 U.S.C. § 6001).
  - The meaning of “a person with disabilities” does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the virus that causes AIDS.
  - The meaning of “a person with disabilities” does not include a person whose disability is based solely on a dependency to any drug or alcohol (for eligibility purposes).
  - A person who qualifies as a “person with disabilities” also qualifies as an individual with disabilities for purposes of protections under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act, including reasonable accommodation and program accessibility for persons with disabilities.
- A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.
- A remaining member of a tenant family where other members of the family are no longer in the unit.
- Has an Annual Income at the time of admission that does not exceed the low-income limits for occupancy, as established by HUD, and posted separately in MHA office
- Is a family that meets the HUD requirements on citizenship or immigration status; (24 CFR § 5.500 - 5.528) see Definitions under Citizenship.
- Provides documentation validating identity of each adult or emancipated minor:

- State issued driver's license (current and unexpired), or
- State issued identification card (issued within the last ten (10) years);
- U.S. passport (current and unexpired);
- US issued immigration verification documents that contain a picture of individual (issued within the last ten (10) years);
- Military identification card; and
- Other documents as may be required by HUD.

### 2.2.1 Documented Social Security Numbers

Applicants must provide a documented Social Security number for all family members (24 CFR § 5.216). The requirements of this section apply to applicants and participants as described in this section, except that this section is inapplicable to individuals who do not contend eligible immigration status under subpart E of this part (see § 5.508).

#### **Disclosure required of assistance applicants:**

Each assistance applicant must submit the following information to the processing entity when the assistance applicant's eligibility under the program involved is being determined.

- The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance applicant's household; and
- The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.
- Applicants may be given up to 90 days, or 120 days for applicants 62 years or older, to submit documents confirming each household member's SSN.

#### **Disclosure required of individual owner applicants:**

Each individual owner applicant must submit the following information to the processing entity when the individual owner applicant's eligibility under the program involved is being determined:

- The complete and accurate SSN assigned to the individual owner applicant and to each member of the individual owner applicant's household who will be obligated to pay the debt evidenced by the mortgage or loan documents; and
- The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

#### **Disclosure required of certain officials of entity applicants:**

Each officer, director, principal stockholder, or other official of an entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

- The complete and accurate SSN assigned to each such individual; and
- The documentation referred to in paragraph (g)(1) of this section to verify each SSN.

#### **Disclosure required of participants:**

- Initial disclosure.
  - Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit the information described in paragraph (e)(1)(ii) of this section, if the participant has:
    - Not previously disclosed a SSN;
    - Previously disclosed a SSN that HUD or the SSA determined was invalid; or



- Been issued a new SSN.
- Each participant subject to the disclosure requirements under paragraph (e)(1)(i) of this section must submit the following information to the processing entity at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification for the program involved:
  - The complete and accurate SSN assigned to the participant and to each member of the participant's household; and
  - The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.
  - Next annual or interim reexamination or within 90 days of request date, or 120 days for participants 62 years or older.
- Subsequent disclosure. Once a participant has disclosed and the processing entity has verified each SSN, the following rules apply:
  - Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN. When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the processing entity at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s):
    - The complete and accurate SSN assigned to each new member; and
    - The documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new member.
  - Addition of new household member who is under the age of 6 and has no assigned SSN.
    - When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new child within 90 calendar days of the child being added to the household.
    - The processing entity shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant. During the period that the processing entity is awaiting documentation of a SSN, the processing entity shall include the child as part of the assisted household and the child shall be entitled to all the benefits of being a household member. If, upon expiration of the provided time period, the participant fails to produce a SSN, the processing entity shall follow the provisions of § 5.218.
  - Assignment of new SSN. If the participant or any member of the participant's household has been assigned a new SSN, the participant must submit the following to the processing entity at either the time of receipt of the new SSN; at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification; or at such earlier time specified by the processing entity:
    - The complete and accurate SSN assigned to the participant or household member involved; and
    - The documentation referred to in paragraph (g)(1) of this section to verify the SSN of

each individual.

- Disclosure required of entity applicants. Each entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:
  - Any complete and accurate EIN assigned to the entity applicant; and
  - The documentation referred to in paragraph (g)(2) of this section to verify the EIN.

**Required documentation:**

- SSN: The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (e) of this section is:
  - A valid SSN card issued by the SSA;
  - An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual; or
  - Such other evidence of the SSN as HUD may prescribe in administrative instructions.
- EIN: The documentation necessary to verify an EIN of an entity applicant that is required to disclose its EIN under paragraph (f) of this section is the official, written communication from the Internal Revenue Service (IRS) assigning the EIN to the entity applicant, or such other evidence of the EIN as HUD may prescribe in administrative instructions.

**Effect on assistance applicants:**

Except as provided in paragraphs (h)(2) and (3) of this section, if the processing entity determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the documentation referred to in paragraph (g)(1) of this section to verify the SSN of each member of the household.

If a child under the age of 6 years was added to the assistance applicant household within the 6-month period prior to the household's date of admission (or, for the HCV program, the date of voucher issuance), the assistance applicant may become a participant, so long as the documentation required in paragraph (g)(1) of this section is provided to the processing entity within 90 calendar days from the date of admission into the program (or, for the HCV program, the effective date of the Housing Assistance Payment contract). The processing entity must grant an extension of one additional 90-day period if the processing entity determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation required in paragraph (g)(1) of this section within the required time period, the processing entity must follow the provisions of § 5.218.

MHA must terminate the assistance or the tenancy, or both, of the family if any member does not meet the applicable SSN disclosure, documentation, and verification requirements. MHA, at its sole discretion, may defer termination and provide resident with an additional 90 calendar days to disclose, document, and verify the SSN if the following applies (24 CFR § 5.218(c)(2)):

- Resident did not meet the applicable SSN disclosure, documentation, and verification requirements due to circumstances that could not have reasonably been foreseen and were outside the control of

the resident; and

- There is a reasonable likelihood that the resident will be able to disclose an SSN by the deadline.

Failure of the resident to disclose an SSN by the end date of the additional 90 calendar days, if provided, will result in termination of the assistance or tenancy, or both, of the participant and the participant's household.

**Rejection of documentation:**

MHA must not reject documentation referred to in paragraph (g) of this section, except as HUD may otherwise prescribe through publicly issued notice.

**2.2.2 Citizenship and Eligible Immigration Status**

To determine each family's eligibility for full assistance or prorated assistance, MHA is required to verify the citizenship and/or immigration status of each individual family member, unless they state they do not contend that they have eligible immigration status. Details of the requirements are described below. There are four (4) categories of citizenship/immigration status:

- Eligible citizen
- Eligible noncitizen
- Ineligible noncitizen
- Pending Verification

The Declaration of Citizenship or Eligible Immigration Status Certification and Verification Consent, Acknowledgement Receipt of Notice of Section 214 Requirements form must be signed by all family members (or by parent or guardian if family member is a minor). Documents to verify citizenship or immigration status may be required as indicated below. Documents must be current and unexpired.

- A citizen/national may submit one of the following documents:
  - U.S. Passport
  - U.S. Birth Certificate
  - Puerto Rican Birth Certificate (will only be accepted if issued after July 1, 2010)
  - Certificate of Citizenship
  - Naturalization Certificate
  - Voter's Registration
  - Other documents as may be required by HUD
- Permanent residents: Permanent Resident Card (Form I-551), also known as the "Green Card".
  - Asylees: Asylum Approval Notice, Employment Authorization Document (EAD), or Arrival-Departure Record (Form I-94), along with government-issued ID card with photo.
  - Refugees: Refugee Approval Notice or Employment Authorization Document (EAD).
  - For non-citizens 62 years of age and older receiving assistance under a covered program on September 30, 1996, or applying for assistance after that date, a signed declaration of eligible immigration status and proof of age is required.
- A victim under the Violence Against Women Act (VAWA) may claim a "satisfactory immigration status" when applying for assistance or continued assistance (PIH Notice 2017-02). Evidence that an individual is a self-petitioner includes one of the following:
  - INS Form I-360 VAWA self-petition.

- INS Form I-130 family-based visa petition.
- INS Form I-360 self-indicating.
- INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I- 360 petition by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS.
- Declaration of Ineligible Immigration Status: An individual may admit to having an ineligible immigration status. The family must identify in writing which family member does not contend to have eligible immigration status.

### 2.2.3 § 960.203 Standards for PHA Tenant Selection Criteria

The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member. The PHA may use local preferences, as provided in § 960.206.

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures, and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points. (See 24 CFR 902.43(a)(5).) This policy considers the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

In selection of families for admission to its public housing program, or to occupy a public housing development or unit, MHA is responsible for screening family behavior and suitability for tenancy. MHA may consider all relevant information, which may include, but is not limited to:

- An applicant's past performance in meeting financial obligations, especially rent;
- A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants.
- Is not already adequately housed in any MHA-owned dwelling unit.
- Owes no money to MHA or any other housing authority in connection with any Federal housing program.
- A 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. (See § 960.204.) With respect to criminal activity described in § 960.204:
  - The PHA may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in § 960.204 that warrants denial.
  - The PHA may, where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.
  - Before a PHA denies admission to, terminates the assistance of, or evicts an individual or household on the basis of criminal activity by a household member or guest, they must determine that the relevant individual engaged in such activity. PHAs are prohibited from denying admission or terminating assistance solely based on arrest records. Prior to evicting a tenant because of a guest's criminal activity, the PHA may consider whether the tenant was aware of the criminal activity or evidence that the guest is unlikely to return to the property. A tenant in a housing program covered by VAWA may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if the criminal activity is engaged in by a member of the household, a

guest, or a person under the control of the tenant and the tenant or an affiliated individual of the tenant is the victim or threatened victim. If the PHA decides to deny admission based on a criminal conviction record, the PHA must notify the family of the proposed action and must give the family an opportunity to dispute the accuracy and/or relevance of the record. A copy of the criminal conviction record must be provided to the head of household and to the subject of the record (if not the head of household). If the family does not dispute the record, or if the family disputes the record but the PHA rejects the families' dispute, a denial notice must be sent. The notification of a proposed action on the basis of a criminal record is a regulatory requirement and is separate from the PHA's informal review procedures.

PHAs must deny admission when:

- Any household member has been convicted of manufacturing methamphetamines on the premises of federally assisted housing.
- Any household member is subject to a lifetime sex offender registration requirement. • The PHA must check for sex offender registration in its own state and in any other state where the family has resided. Use of a nationwide database such as [www.nsopw.org](http://www.nsopw.org) is recommended to conduct this required check.
- The PHA determines that a household member is currently engaging in illegal drug use.
- The PHA has reasonable cause to believe that other tenants' health, safety or right to peaceful enjoyment may be threatened by a household member's:
  - Illegal drug use or pattern of illegal drug use, or
  - Abuse or pattern of abuse of alcohol.
- A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.

The PHA may admit the family, however, if it determines that the household member who engaged in the activity has successfully completed a supervised rehabilitation program, or the circumstances no longer exist (for example, the household member has died or is imprisoned). The term "admission" includes and applies to a person seeking to become a new member of an already-existing household. For example, PHAs must prohibit a person subject to a lifetime sex offender registration requirement from becoming a new member of an already-existing household (e.g., being added to an already-existing lease). Such addition to the existing household would constitute a new "admission" for the added individual proposed action based on a criminal record is a regulatory requirement and is separate from the PHA's informal review procedures.

Mandatory and discretionary denials of admission for criminal activity or drug abuse are summarized below:

Type of Criminal Activity or Offense/Drug Abuse	Action
Convicted of producing methamphetamine on the premises of federally assisted housing	Mandatory denial.
Subject to a lifetime registration requirement under a state sex offender program	Mandatory denial.
Determined to be currently engaging in illegal use of a controlled substance	Mandatory denial
Reasonable cause to believe that illegal use or pattern of illegal use of a controlled substance or abuse or pattern of abuse of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents	Mandatory denial

Evicted from federally assisted housing for drug-related criminal activity within the last three years, UNLESS <ul style="list-style-type: none"> <li>• The circumstances leading to the eviction no longer exist, or</li> <li>• The evicted household member has successfully completed an approved supervised drug rehabilitation program</li> </ul>	Mandatory 3-year denial on admission, except if specified conditions are met then PHA may exercise discretion
History of drug-related criminal activity	Discretionary denial
History of violent criminal activity	Discretionary denial
History of criminal activity that adversely affects the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, persons residing in the immediate vicinity of the premises, or public housing agency employees	Discretionary denial

MHA's tenant selection criteria are subject to 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking). In cases of requests for emergency transfers under VAWA, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, the receiving PHA may accept and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information, including form HUD 50058 (Family Report).

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

In a manner consistent with the PHA's policies, procedures and practices consideration may be given to factors which might indicate a reasonable probability of favorable future conduct. For example:

- Evidence of rehabilitation; and
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs.

#### 2.2.4 Consideration of Rehabilitation

In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, MHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, MHA may 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.

If rehabilitation is not an element of the eligibility determination (see § 960.204(a)(1)), MHA may choose not to consider whether the person has been rehabilitated. The consent form submitted for a proposed household member must expire automatically after MHA has made a final decision to either approve or deny the admission of such person.

MHA may request that a drug abuse treatment facility disclose whether the drug abuse treatment facility has reasonable cause to believe that the proposed household member is currently engaging in the illegal use of a drug (as defined in § 5.100 of this title). MHA's request to the drug abuse treatment facility must include a copy of the consent form signed by the proposed household member.

A drug abuse treatment facility is not liable for damages based on any information required to be disclosed

under this section if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

MHA is not obligated to request information from a drug treatment facility under this section and is not liable for damages for failing to request or receive such information. A drug abuse treatment facility may charge MHA a reasonable fee for information provided under this section. MHA may not pass along to the applicant or tenant the costs of obtaining this information.

#### 2.2.5 § 960.205 Obtaining information from Drug Treatment Facility

This section addresses MHA's authority to request and obtain information from drug abuse treatment facilities concerning applicants. This section does not apply to information requested or obtained from drug abuse treatment facilities other than under the authority of section 6(t). Additional terms used in this section are as follows:

- Currently engaging in illegal use of a drug. Illegal use of a drug occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.
- Drug abuse treatment facility. An entity:
  - That holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use; and
  - That is either an identified unit within a general care facility, or an entity other than a general medical care facility.
- Authorization by household member for MHA to receive information from a drug abuse treatment facility.

The PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head or spouse regardless of age, one or more consent forms signed by such household member that:

- Requests any drug abuse treatment facility to inform the PHA only whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use;
- Complies with the form of written consent required by 42 CFR 2.31; and
- Authorizes the PHA to receive such information from the drug abuse treatment facility, and to utilize such information in determining whether to prohibit admission of the household member to the PHA's public housing program in accordance with § 960.203 above.

#### 2.2.6 Prohibition of Discriminatory Treatment of Applicants

MHA may request information from a drug abuse treatment facility only if MHA has adopted and has consistently implemented either of the following policies, obtaining a signed consent form from the proposed household members:

- Policy A - Request for all families. Under Policy A, MHA must submit a request for information to a drug abuse treatment facility before admitting any family to MHA's public housing program. For each such family, the request must be submitted for each proposed household member.
- Policy B - Request for certain household members. Under Policy B, MHA must submit a request to a drug abuse treatment facility only with respect to each proposed household member:
  - Whose criminal record indicates prior arrest or conviction for any criminal activity that may be a basis for denial of admission under § 960.205; or
  - Whose prior tenancy records indicate that the proposed household member:



- Engaged in the destruction of property;
- Engaged in violent activity against another person; or
- Interfered with the right of peaceful enjoyment of the premises of other residents.

### **MHA is adopting Policy B for incoming applicants.**

#### **2.2.7 Mixed Families**

A mixed family is composed of both eligible and ineligible members. A family is not eligible for FULL housing assistance unless every member of the family in the unit is determined to be either a U.S. citizen or have eligible immigrant status as defined by the regulations. Families who are a mixed family must be provided prorated assistance per 24 CFR § 5.520(d) effective April 7, 2016, unless eligible for continued assistance or temporary deferral of termination of assistance.

#### **Continued Assistance**

A mixed family may receive full housing assistance if they meet all the following conditions:

- The family was receiving assistance under a Section 214 covered program on June 19, 1995, which is when the Noncitizens rule became effective.
- The head of household, the spouse, or co-head has eligible immigration status (24 CFR § 5.506).
- The family does not include any person without eligible immigration status other than the Head of Household, spouse, co-head, and parents or children of the Head, spouse, or co-head.

A family granted continued assistance before November 29, 1996, is entitled to receive non-prorated assistance. A family granted assistance after November 29, 1996, must receive prorated assistance (24 CFR § 5.520(d)).

#### **Temporary Deferral of Termination of Assistance**

If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing (see 24 CFR § 5.218(b)).

Documentation proving citizenship or eligible immigration status must be provided to MHA within ten (10) business days. MHA may extend the submission period, which shall not exceed 30 days. Family members that are ineligible noncitizens are required to submit evidence of changes in immigration status, while receiving prorated assistance under the program.

MHA shall verify with United States Department of Homeland Security (DHS) through primary, and if necessary, secondary verifications of the immigration status for each family member as follows:

- **Primary Verification:** The DHS Systematic Alien Verification for Entitlements (SAVE) system provides automated immigration status. This must be done as part of the applicant eligibility process or additions to households.
- **Secondary Verification:** If primary verification is unsuccessful and the family member has disclosed eligible immigration status and presents valid immigration documents, a secondary verification must immediately be done. This consists of mailing a DHS form with copies of the immigration documents.



- Pending Verification of immigration status: When the primary or secondary verification of immigration status that was timely submitted has not been received. Also, when an appeal by the individual with DHS is pending.

Once the applicant or participant has provided the immigration documents, MHA may not deny, delay or terminate assistance solely on the basis that the primary or secondary verification of the immigration status has not been completed. In circumstances where DHS has not verified eligibility, the family will be provided with a written notice that shall include:

- That the family has a right to request an appeal to DHS of the results of the verification of immigration status;
- That the family has the right to request an informal hearing with MHA upon completion of the DHS appeal. Such a hearing shall be held in accordance with the Grievance and Appeal Policy of this ACOP.
- That housing assistance may not be denied or terminated until the conclusion of the DHS or MHA appeal process; and
- Notification of the type of assistance for which the family may be eligible (continued assistance, temporary deferral of assistance or pro- ration of assistance).

## 2.3 Admission Priorities

### 2.3.1 Deconcentration

In its assignment of units, MHA will, to the maximum extent possible, avoid the concentration of the most economically and socially deprived families in any one or all of its developments, in an attempt to achieve a broad range of incomes.

### 2.3.2 Income Targeting

Applicants will be grouped according to the following priorities based on income ranges:

- Priority 1: Families with incomes between 0% and 30% of the area median income
- Priority 2: Families with incomes between 31% and 80% of the area median income (target is 60% of admissions)

As required by the Quality Housing Responsibility Act of 1998, at least 40 percent of the families admitted during the fiscal year must be admitted from Priority 1. In order to ensure that at any given time MHA has not fallen below the required 40%, the following test will be performed prior to each new admission:

- Determine total number of admissions since start of the fiscal year.
- Add one to this total (the applicant about to be housed)
- Determine number of families housed to-date with incomes at or below 30% of median.
- Divide c by b.
- If the result is .40 or greater, next admission may have an income greater than 30%
- If the result is less than .40, the next admission must have an income at or below 30% of median.

To prevent or correct concentrations of the lowest income families in any one project or portion of project, MHA may skip over a Priority 1 family on the Waiting List to house a Priority 2 family with higher income.

NOTE: MHA may reduce the 40 percent target for public housing by exceeding the 75 percent minimum targeting requirement for admission of extremely low-income families in MHA's Section 8 voucher program, not to exceed the lowest of the following: ten percent of the public housing waiting list admissions; ten percent of the Section 8 waiting list admissions; the number of low-income families (other than extremely low-income families) that Lease public housing units in high- poverty census tracts, defined as those with a poverty rate greater than 30 percent.

When selecting a family for a unit in housing designated for elderly families, MHA will give a priority to elderly and near elderly; in housing designated for disabled families only disabled families will be admitted.

When selecting a family for a unit with accessible features, MHA will give priority to families that include disabled persons who can benefit from the unit's features. If no family needing accessible features can be found for a unit with accessible features, MHA will house a family not needing the features, subject to the procedures described in the Tenant Selection and Assignment Plan under this Policy. A non-disabled family in an accessible unit will be required to move so that a family needing the unit features can take advantage of the unit.

If determined necessary to increase security within a project, MHA may rent a unit to a police officer who is not otherwise eligible. Rent and terms of the Lease will be negotiated between MHA and the Officer. The Officer must be employed full-time as a professional officer licensed by a federal, state, or local government agency.

### 2.3.3 Making Housing Offers to Eligible Applicants

MHA makes public housing unit offers throughout Shelby County. Such an offer does not guarantee the availability of the unit. To ensure equal opportunity and nondiscrimination on grounds of race, national or ethnic origin, color, sex, religion, age, disability, ancestry, status as a victim of domestic violence, dating violence, sexual assault, or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income, the following procedures will be used to make unit offers:

- In the selection of a family for a Uniform Accessibility Standards (UFAS) unit or a unit with accessible features, MHA will give preference to current residents and then to applicant families that include a person with disabilities who can benefit from the unit features.
- Eligible applicants will receive a letter providing a housing offer; this housing offer must be accepted or refused within five (5) business days from the date of the letter. The acceptance or refusal of the housing offer must be brought in person to the development at which the unit is being offered.

Upon receipt of a housing offer letter, an applicant can contact the Property Manager or designee to schedule an appointment to view the offered unit. The applicant must accept or refuse the offered unit after it has been shown and must notify management in person and/or in writing within the timeframe specified in the housing offer letter. If the applicant refuses the unit, the applicant must sign a statement explaining the reason for the refusal. MHA is then responsible for making the "good cause" determination.

### 2.3.4 Good Cause for Applicant Refusal of Unit Offer

If an applicant or resident does not accept the unit and presents clear evidence that acceptance of the offer of a suitable vacancy will result in undue hardship (see examples below) not related to federal, state, and local antidiscrimination laws regarding fair housing, the applicant will be entitled to another offer. Examples of good

cause for refusal of an offer of housing are:

- The unit being offered to the applicant family is not ready for occupancy.
- Hardship in retaining employment or attending specialty education, job training, or educational program for children with disabilities due to a lack of transportation, so that accepting the unit offer would require the adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of an educational program for children with disabilities.
- The family demonstrates that accepting the offer will place a family member's life, health, or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons offered must be specific to the family.
- A victim of domestic violence, dating violence, sexual assault or stalking does not believe the unit is safe pursuant to 24 CFR §5.2005(e)(1)(iii).
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each 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 disability, or the family does not need the accessible features in the unit offered and does not want to be subject to the 30-day notice to move.
- An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing.

If good cause is verified, the refusal of the offer shall not require the applicant to be removed from the waiting list or otherwise affect the family's position on the waiting list. The applicant will receive another housing offer upon unit availability.

### 2.3.6 Records Retention and Confidentiality

Because there are strict penalties for improper disclosure of criminal conviction records, MHA must establish procedures aimed at maintaining confidentiality. Criminal records must be maintained confidentially and may only be disclosed to persons within MHA with a job-related need to know the contents. Criminal background records, including sex offender registration information must be destroyed promptly once the purpose has been served. For example, if MHA decides to admit the family to the PH program, the records must be destroyed immediately. If MHA decides to deny admission based on a criminal conviction record, the record may be retained during the period allowed for requesting an informal review, and until the review, if requested, has been completed. The record must then be destroyed promptly. MHA must not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file.

Each PHA that receives information from a drug abuse treatment facility must establish and implement a system of records management that ensures that any information which the PHA receives from the drug abuse treatment facility about a person:

- Is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd-2);
- Is not misused or improperly disseminated; and
- Is destroyed, as applicable:
  - Not later than 5 business days after the PHA makes a final decision to admit the person as a household member under the PHA's public housing program; or
  - If the PHA denies the admission of such person as a household member, in a timely manner

after the date on which the statute of limitations for the commencement of a civil action based upon that denial of admissions has expired without the filing of a civil action or until final disposition of any such litigation.

In addition, any information an individual submits regarding medical or other information to support an individual's reasonable accommodation request, including reasonable accommodation requests related to a PHA's decision to deny admission based on a criminal record, must be kept confidential. Additionally, if the individual has represented that they are a victim of domestic violence, dating violence, sexual assault, or stalking while invoking rights under VAWA, any information they submit must be kept strictly confidential.

The improper release of criminal records may result in conviction for a misdemeanor and imposition of a penalty.

- Any person, including an officer, employee, or authorized representative of MHA or of any project owner, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance under the authority of this section under false pretenses; or
- Any person, including an officer, employee, or authorized representative of any PHA or a project owner, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

In addition to criminal penalties, MHA may be held civilly liable to any applicant or tenant affected by either of the following:

- A negligent or knowing disclosure of criminal records information obtained under the authority of this section about such person by an officer, employee, or authorized representative of MHA, if the disclosure is not authorized by HUD's regulations; or
- Any other negligent or knowing action that is inconsistent with HUD's regulations.

## CHAPTER 3 – Waiting List and Tenant Selection

### 3.1 Waiting List

It is the policy of MHA to administer its Waiting List as required by the regulations at 24 CFR § 960. All properties with Public Housing units under MHA must maintain their public housing waitlist through MHA's centralized software. MHA, at its discretion, may restrict application intake, suspend application intake, and close Waiting Lists in whole or in part. MHA may open or close the list by unit size or type available.

At the time of initial intake, MHA will advise families of their responsibility to notify MHA when their circumstances, mailing address or phone numbers change. If the head of an applicant household dies while the family is on the waiting list, and the family includes another adult, MHA will change the application to make the other adult the new applicant so long as the family reports the death within 30 days and requests that another adult family member be named the head.

At the time of application, the head of household must be 18 years of age or older or have been emancipated by a court of competent jurisdiction.

Applicants whose family size or composition changes while on the waiting list will be able to change their applications in accordance with the following policy:

- Children who have been added to the family through birth adoption or court awarded custody to people already listed on the application will be added. MHA will require that the addition of children under 18 to the Household where the child is not the biological parent will be accomplished by documentation that the head of household has authorization to include a minor as part of the household.
  - Court documents
  - Parent or Custodian's written consent
  - Other State and Federal public assistance documentation
  - Power of Attorney documents
- Individuals who can document that they need a live-in aide (even though not included on the original application) will be permitted to add the Live-In Aide as long as the Live in Aide meets the requirements. See Income inclusions and exclusions for treatment of the Live in Aide income.
- Other adults will NOT be added to an application unless their addition would not change the unit size for which the family qualifies, although the family may file a different application with a different family composition when the waiting list is open.

Placement on the waiting list does not indicate that the applicant is eligible for admission or that the applicant will receive a housing offer.

#### 3.1.1 Closing the Waiting List

Decisions about closing the Waiting List will be based on the number of applications available for a particular size and type of unit and the ability of MHA to house an applicant in an appropriate unit within a reasonable period of time.

Decisions to close the Waiting List, restrict intake or open the Waiting List will be publicly announced. During the period when the Waiting List is closed, MHA will not maintain a list of individuals who wish to be notified when the waiting list is re-opened.

When the waiting list is closed or re-opened, a sign will be placed in the lobby (office, window) and an advertisement will be placed in the newspaper. The sign and ad will indicate which parts of the Waiting List are affected (program type, and bedroom size).

MHA may elect to dissolve the waiting list periodically or as needed. Notwithstanding the dissolution of the waiting list, applicants who were selected from the waiting list and are pending a unit offer will continue to be processed by MHA. The applicant family will not be offered a unit under the dissolved waiting list under the following circumstances:

- The applicant family that was selected and scheduled for initial interview but did not attend.
- The applicant family refused a housing offer without good cause.

### 3.1.2 Removal of Applications from Waiting List

MHA will remove an applicant's name from the Waiting List under the following circumstances:

- The applicant requests that the name be removed.
- The applicant has failed to advise MHA of his/her continued interest in being on the Waiting List. MHA requires applicants to notify MHA of continued interest on a six (6) month basis (subject to reasonable accommodation for persons with disabilities). This includes advising MHA of any changes in family status, priority status, or in physical or mailing address.
- MHA has made reasonable efforts to contact the applicant to schedule interviews or obtain information necessary to complete the application process and the applicant has failed to respond. In this case, MHA will notify the applicant in writing or by telephone that he/she has ten (10) days within which to reschedule the interview or provide the needed information. If applicant fails to respond within that period, the application will be withdrawn.
- The applicant has failed to pay an outstanding balance owed to MHA.
- MHA has notified the applicant of its intention to remove the applicant's name because the applicant was determined ineligible based on preliminary information on the application or pursuant to the verification process. In this case, the applicant may request an Informal Hearing for Denials. He/she must respond in writing within ten (10) days of receipt of the written notification.
- MHA finds that the applicant has provided false information regarding family income composition, preferences or other circumstances affecting their eligibility or rent level.
- The applicant accepts an offer and is housed under the public housing lease.

MHA will consider mitigating circumstances such as disabilities, health problems or lack of transportation in determining if the application should be withdrawn. Persons whose applications are withdrawn or who are denied may not reapply for twelve (12) months from the date of withdrawal or denial.

All rejected applicants are entitled to a written notice explaining the reason for the rejection and may request an informal review within 5 days of the notice. Reinstatement on the waiting list is considered under the following circumstances:

- Applicant families who refused the housing offer due to a disability may request a reasonable accommodation in accordance with the Reasonable Accommodation Policies and Procedures. Upon

approval of the reasonable accommodation request, the applicant family shall be returned to the applicant's former waiting list position.

- When an informal review overturns the decision to remove the applicant family from the waiting list, the applicant family shall be returned to the applicant's former waiting list position.

### 3.1.3 Factors Affecting Selection from the Waiting List

Several factors may affect how applicants are selected.

#### **Uniform Federal Accessibility Standards (UFAS)**

The need for units complying with the Uniform Federal Accessibility Standards (UFAS) or units with accessible features may affect how applicants are selected. Transfers of residents with disabilities and placement of applicants with disabilities requiring units complying with UFAS or units with accessible features will be approved in accordance with the Reasonable Accommodation Policies and Procedures, through MHA.

When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant accessible unit and who is otherwise occupying a unit not having those features. If there are no current residents in the same development who require the accessibility features, then the vacant accessible unit will be offered to a resident with disabilities from another development that requires the accessibility features.

If there are no current residents who require the accessibility features of the vacant accessible unit, then the vacant accessible unit will be offered to the next eligible qualified applicant with disabilities on the waiting list. If there are no eligible qualified residents or applicants with disabilities on the waiting list who wish to reside in the available accessible unit, then the unit will be offered to an applicant on the waiting list who does not need the accessible features of the unit. The Public Housing Dwelling Lease requires residents to relocate to a vacant non-accessible unit within 30 days of date written on the notification from the Property Manager if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.

#### **Resident Transfers**

MHA will also offer units (including Public Housing units in mixed finance developments) to existing qualified residents on the transfer list. Emergencies, reasonable accommodation, and occupancy standards transfers are processed before new admissions.

#### **Elderly Designated Housing**

Elderly families from the Public Housing waiting list receive priority for admission to units or buildings covered by a HUD-approved Elderly Designated Housing Plan. When there are insufficient elderly families, MHA may grant near-elderly families priority for admission to these units or buildings or reopen the waiting list to receive applications for this type of elderly unit designation.

#### **Admission Preferences**

MHA may adopt admission preferences for selection of families admitted to the public housing program based on admission housing needs and priorities as determined by MHA. Admission preferences are subject to the specific admission preference being indicated in the housing application. Applicants requesting an admission preference should be properly coded on the waiting list. MHA will not hold its units vacant for applicants with

an admission preference, nor will it relax eligibility the screening criteria to admit otherwise unqualified applicants with a preference.

- Veterans
  - MHA, at its sole discretion, will provide an admission preference over new admissions to applicants who's head or co-head are eligible veterans. The veteran status extends to spouses, widows, widowers, and parents of the military killed during a time of war.
  - A veteran is a person who:
    - had at least 180 days of regular active duties and was honorably discharged or released; or
    - had at least 90 days of active-duty service, of which at least one (1) day of service was in a war conflict and was honorably discharged or released; or
    - served in a war conflict and was awarded a Purple Heart or became disabled, regardless of completion of days of active duty.
  - Applicants claiming a veteran's preference must provide a copy military service record, proof of service, or the discharge documents (Form DD214) of the veteran for whom the preference is claimed.
- VAWA (Violence Against Women's Act)
- Education
- Displacement
- Elderly/Persons with Disabilities

#### 3.1.4 Changes in Admission Preference Status

Occasionally, families on the waiting list who did not qualify for an admission preference at the time they applied for rental assistance will experience a change in circumstances that now qualifies them for a preference. In such instances:

- It is the family's responsibility to notify MHA.
- The record will be updated for families certifying that they now qualify for an admission preference on the waiting list in accordance with their electronic randomly sorted ranking and their applicable preference(s).

Applicants failing to provide verification of their admission preference status at initial eligibility screening will not be eligible for the admission preference and will be restored to the general waiting list for selection in accordance with the movement on the waiting list.

Applicants determined ineligible for the requested admission preference will be notified of their ineligibility and shall be provided an opportunity for an informal review if requested within 10 days of the written notice.

Although the ranking preferences have several subcategories, the subcategories will not be combined or aggregated in any way. Applicants will be considered for admission based on any one of the subcategories in which they qualify. Thus, an applicant whose family includes two members with Elderly preferences does not rank any higher than a family that has only one member qualifying for the Elderly preference.

#### 3.1.5 Interviews

As applicants approach the top of the waiting list, they will be contacted by mail and scheduled for an eligibility



interview to commence their screening. If required, the applicant may be contacted to update information. Applications will be withdrawn if an applicant fails to attend a scheduled interview. MHA will make an exception for those people with a disability requiring a reasonable accommodation as described in MHA's Reasonable Accommodation Policy and Procedures.

The following items will be verified to determine qualification for admission to the Public Housing program prior to obtaining written consent authorizing a criminal background check:

- Identity of each adult or emancipated minor household member.
- Family composition and type (Elderly/Disabled/near elderly /non-elderly)
- Annual Income
- Assets and Asset Income
- Deductions from Income
- Admission preferences
- Social security numbers of all family members
- Applicant Screening Information
- Citizenship or eligible immigration status
- Current landlord references
- Debts owed to a public housing authority and termination of assisted housing through HUD's Enterprise Income Verification (EIV) system.
- Housing assistance (avoiding double subsidy) by a public housing authority through HUD's Enterprise Income Verification (EIV) system.
- Public Records (eviction history)
- Criminal Background Check

### 3.2 Occupancy Standards

It is MHA's policy that units should be occupied by families of the appropriate size. This policy maintains the usefulness of the units while preserving them from excessive wear and tear. The following minimum and maximum number of persons per unit guide will govern the number of bedrooms required to accommodate a family of a given size and composition:

Number of Bedrooms	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

Families may choose to be placed on the waiting list for a unit one bedroom size smaller than that designated on the chart. A family that chooses to occupy a smaller size unit must agree not to request a transfer until their family size changes. At the discretion of MHA, families may be permitted to exceed the maximum as shown on the chart when the family requests such occupancy, and when MHA determines that the unit in question is large enough. In any case, no larger unit will be held vacant due to lack of appropriate-sized family on the Waiting List, if it is not financially feasible to do so.

Under the minimum-number-of-persons-per-unit standard, MHA will assign up to two people per one bedroom, except that units will be so assigned that:

- It will not be necessary for persons of different generations or opposite sex, other than husband and wife, to occupy the same bedroom except at the request of the family.
- Exceptions to these standards may be made in the case of reasonable accommodations for a person with disabilities.
- An unborn child will be counted as a person in determining unit size. A single pregnant woman may be assigned to a two-bedroom unit.
- In determining unit size, MHA will consider a child who is temporarily away from home because of placement in foster care, kinship care or away at school.
- Two children of the opposite sex will not be required to share a bedroom except at the request of the family. Two children of the same sex are expected to share a bedroom, regardless of their ages.
- The living room or dining room will not be considered as a bedroom when determining the minimum size unit for which a family qualifies.
- A single head of household parent will not be required (but may choose) to share a bedroom with his/her child.
- A live-in aide may be assigned one (1) bedroom. No additional bedrooms will be provided to accommodate the live-in aide's family members.
- For verified reasons of medical or health problems, a separate bedroom may be provided for an individual family member. An applicant or program participant family may be allowed a larger bedroom unit to accommodate a family member who requires certain medical equipment (i.e., hospital bed) or for other verifiable reasons.
- A single person who is not elderly, disabled, displaced or the remaining member of a resident family, may not be placed in a larger than one bedroom unit.
- A one (1) person family who has been awarded with joint custody of a minor will be granted a one (1) bedroom unit unless proof of primary residence for the minor is provided.

In assigning unit sizes, MHA will take into account different cultural standards, length of time the family would have to wait for smaller versus larger units, and the age, relationship and sex of family members.

Due to some fire and emergency limitations, MHA may recommend that tenants with specific or acute mobility issues (non-ambulatory, significant physical mobility limitations) who seek to reside in the high-rise units, be placed on floors no higher than the 7th floor. MHA management shall make all efforts to house all qualified applicants properly and safely and will endeavor to use reasonable accommodations to ensure safe housing in accordance with applicable guidelines.

### 3.2.1 Changes to Household Composition

Changes to the family or household composition shall be considered and documented at the time the changes below occur.

#### **Addition to the Family**

Requests for additions to the family composition must be made in writing by the head of household and are restricted to: Spouses, co-heads, or domestic partners, children born to, adopted, or otherwise granted custody by operation of law.

MHA will require documentation that the head of household has authorization to include a minor as part of the household. Documentation to add a minor can include but is not limited to court documents, pre-need guardian, school records, parent or custodian's written consent, other state and federal public assistance documentation, or power of attorney.

Immediate relatives (sons, daughters, brothers, sisters, parents, grandparents and grandchildren) may be added by reasonable accommodation on a case-by-case basis and approved by the division director or designee. MHA will perform criminal background screenings for new additions to the household age 18 and over.

#### **Removals from the Family Composition**

Any adult family member requesting to be removed from the family composition must provide proof of a new address and/or a statement agreeing to the removal. The head of household must complete the Request to Remove Household Member form and submit it to the Property Manager.

#### **Addition to the Household Composition**

A foster child is a child that is in the legal guardianship or custody of a state, or foster care agency, yet is cared for by foster parents in their own homes, under short-term or long-term foster care arrangement with the custodial agency. A foster adult are usually persons with disabilities, unrelated to the tenant family, who is unable to live alone.

Foster children and foster adults living with an applicant or resident are considered household members but not family members. The income of foster children and foster adults are not counted as part of the family's annual income and dependent deductions may not be claimed.

MHA will require documentation that the head of household has been granted legal guardianship or custody of a foster child or foster adult.

#### **Live-in Aide**

MHA must approve a live-in aide, if needed as a reasonable accommodation request, to make the program accessible to and usable by the head of household or family member with a disability. A live-in aide is a household member, not a family member. The income of the live-in aide is not counted as part of the family's annual income. The live-in aide does not qualify for continued occupancy as a remaining family member and does not have any rights to the unit.

Any individual selected by the family member with disability to be the live-in aide must comply with the

following criteria:

- The physician must verify the need for a live-in aide.
- The live-in aide must live in the unit solely to care for the disabled individual.
- The live-in aide must pass a background check.

The head of household and the live-in aide must sign the Live-in Aide Certification initially and annually (as part of the annual reexamination of the family). The head of household and live-in aide must also sign a Live-in Aide Agreement which shall become part of the addendum to the resident's lease.

The live-in aide must agree to move-out out of the unit should the disabled resident, no longer reside in the unit or pass away. In such circumstances, the Property Manager provides notice for the live-in aide to vacate the premises within 30 days. Upon termination of the live-in aide's services for any other reason, the live-in aide shall vacate the unit within 24 hours.

On a case-by-case basis, relatives satisfying the definition of a live-in aide wanting to have remaining family status may be added to the family composition as a family member and not as a live-in aide. In such case, the relative's income will be part of the family's annual income.

An eligible live-in aide may be granted up to one (1) additional bedroom in accordance with the occupancy guidelines or standards. If live-in aide has family members that causes the resident to be underhoused, the live-in aide will be denied.

The live-in aide must provide the following documents as part of the admission process:

- Proof of identity
- Verification of birth date
- Social security number
- Proof of current residency
- Other documents as may be required by HUD.

The live-in aide will be asked to sign forms which include but is not limited to the following:

- Authorization to Check Information
- Authorization to Obtain Criminal Background
- Authorization for the Release of Information/ Privacy Act Notice (Form HUD-9886)
- Debts Owed to Public Housing Agencies and Terminations (Form HUD-5267)
- What You Should Know About EIV (Form by HUD)
- Live-in Aide Certification
- Live-in Aide Agreement (completed upon approval of the live-in aide)

HUD maintains a record of current participants and of debts owed and adverse information of former participants, which is available to housing authorities through the Enterprise Income Verification (EIV) system. MHA will verify information of the live-in aide through EIV for double subsidy, debt owed, and any record of a negative reason for their end of participation from another housing authority or program.

The live-in aide may be denied for the following reasons:

- Failed to provide or sign required documentation to complete the admission process and/or failed to sign the Live-in Certification or Live-in Aide Agreement forms.
- Committed fraud, bribery or any other corrupt or criminal act about any federal housing program.
- Has been living in the subsidized unit as an unauthorized occupant/boarder.

- Has engaged in criminal activity as detailed in this ACOP.
- Owes rent or other amounts to the public housing agency (PHA) in connection with Section 8 or public housing assistance.
- Lifetime sex offender
- Has family members that will cause the resident to be underhoused.

### 3.3 Tenant Selection

Memphis Housing Authority will select families based on the following preferences within each bedroom size category based on our local housing needs and priorities. Applicants requesting an admission preference should be properly coded in the waiting list. MHA will not hold its units vacant for applicants with an admission preference, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with a preference.

#### Families of Federally Declared Disasters

Section 8 Voucher holders or public housing residents in another jurisdiction will receive preference over other waiting list placeholders for public housing, and that displaced public housing residents will receive preference over other waiting list families for admission to the voucher program.

In the case of a federally declared disaster, MHA reserves the right for its Executive Director to suspend its preference system for whatever duration the Executive Director feels is appropriate and to admit victims of the disaster to the program instead of those who would be normally admitted. Any other provisions of this policy can also be suspended during the emergency at the discretion of the Executive Director so long as the provision suspended does not violate a law. If regulatory waivers are necessary, they shall be promptly requested of the HUD Assistant Secretary for Public and Indian Housing.

#### Displaced victims

Through no fault of their own, which are current residents of MHA.

#### Veteran Preference

MHA shall provide a preference for any active-duty United States service member or veteran. The preference shall be extended to:

- The household of which the service member or veteran is a member. A veteran is a person who:
  - had at least 180 days of regular active duties and was honorably discharged or released; or
  - had at least 90 days of active-duty service, of which at least one (1) day of service was in a war conflict and was honorably discharged or released; or
  - served in a war conflict and was awarded a Purple Heart or became disabled, regardless of completion of days of active duty.
- The surviving household members of a deceased service member or veteran who dies of service-connected causes, provided:
  - The death occurred during active-duty service or within five years of discharge from service.
  - The death occurred not more than five years from the date of application for housing.

The preference established by this section shall be cumulative with any other preference allowed by MHA for which the applicant qualifies, so that service members or veterans have priority over nonservice members and

nonveterans within each preference category.

## **VAWA (Violence Against Women's Act)**

### **Education**

MHA shall provide a preference for an active student.

### **Elderly/Persons with Disabilities**

Nothing in this section shall be construed to supersede:

- Any Federal law or regulation relating to, or local preferences adopted pursuant to Federal law.
- Any Federal law or regulation concerning tenant eligibility and selection, or local criteria adopted pursuant to Federal law.

### **Income Targeting/Local Preference**

MHA will choose applicants from the Public Housing waiting list by the following tier's:

- Tier I – Extremely Low Income: Families with incomes between 0 percent and 30 percent of area median income – this group must constitute at least 40 percent of all new admissions in any year.
- Tier II – Very Low Income: Families with incomes between 31 percent and 50 percent of area median income.
- Tier III – Low Income: Families with incomes between 51 percent and 80 percent of area median income.

The maximum percentage of annual admissions from Tier II and Tier III cannot exceed 60 percent of all new admissions in any year.

If MHA has met the requirements of Tier I (extremely low) as stated in CFR 24 §960.202 (1) (i), the first eligible applicant from Tier III (low income) will be notified before an applicant from Tier II (very low). If there are no eligible applicants from Tier III or Tier II on the waiting list, then the first eligible applicant from Tier I will be notified of the vacancy.

The date and time of application will be noted and utilized to determine the sequence within the above-prescribed preferences. Notwithstanding the above, families who are elderly, disabled, or displaced will be offered housing before other single persons.

### **Buildings Designed for the Elderly and Disabled (Mixed Population Developments):**

Preference will be given to elderly and disabled families equally in determining priority for admission. MHA will not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population development. In selecting elderly families and disabled families to occupy units, MHA will first offer unit that has special accessibility features for persons with disabilities to families who include persons with disabilities who require the accessibility features of such units. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units will be offered to families who qualify for the appropriate bedroom size using these priorities. All such families will be selected from the waiting list using the preferences as outlined above.

**Accessible Units:**

Accessible units will be first offered to families who may benefit from the accessible features who reside in the development that has the vacancy. If there are no families residing in that development needing the accessible unit, it shall then be offered to families residing in other developments who may benefit from the accessible unit. If there are no families residing in the other developments needing the accessible unit, it shall then be offered to applicants on the waiting list who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above.

If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, will be requested to sign a lease rider stating they will accept a transfer (at their own expense) if, at a future time, a family requiring an accessible feature applies or a family requires a transfer from a non-accessible unit. Any family required to transfer will be given a 30-day notice.

If there are no accessible units for an applicant, MHA will modify an available unit, if possible and/or to the greatest extent possible. If that is not possible, a non-accessible unit must be offered to the family until such time as the family's need can be met.

**3.3.1 Tenant Selection Criteria**

It is MHA's policy that all applicants shall be screened in accordance with HUD's regulations (24 CFR § 960) and sound management practices. During screening, MHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below:

- pay rent and other charges (e.g., utility bills) as required by the lease in a timely manner;
- care for and avoid damaging the unit and common areas;
- use facilities and equipment in a reasonable way;
- create no health, or safety hazards, and to report maintenance needs;
- 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 that threatens the health, safety or right to peaceful enjoyment of other residents or staff; and not to engage in any drug-related criminal activity; and
- comply with necessary and reasonable rules and program requirements of HUD and MHA.

**How MHA will check ability to comply with essential lease requirements:**

- Applicant ability and willingness to comply with the essential lease requirements will be checked and documented in accordance with MHA's Procedure on Applicant Screening. Information to be considered in completing applicant screening shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application, in present and prior housing. Any costs incurred to complete the application process and screening will be paid by MHA.
- The history of applicant conducts, 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 § 960.203(c)]
  - Adversely affect the physical environment or financial stability of the project; [24 CFR § 960.203(c)(1)]

- Violate the terms and conditions of the lease; [See 24 CFR § 8.3 Definition: Qualified individual with handicaps]]
- Require services from MHA staff that would alter the fundamental nature of MHA's program. [See 24 CFR § 8.3 Definition: Qualified individual with handicaps]
- MHA will conduct a detailed interview of all applicants using an interview checklist. The checklist is part of the screening procedures used in support of this policy. The form will ask questions based on the essential elements of tenancy. Answers will be subject to third party verification. [24 CFR § 960.259(c)]
- MHA may complete a credit check and a rental history check on all applicants. If a credit check is deemed necessary, MHA will pay attention to the applicant's history of rental payment as opposed to payment history generally.
- Payment of funds owed to MHA, or any other housing authority is part of the screening evaluation. Payment of outstanding balances is an opportunity for the applicant to demonstrate an improved track record. MHA will reject an applicant for unpaid balances owed to MHA by the applicant for any affordable housing program. MHA expects these balances to be paid in full before initiating the full screening process. MHA will not admit families who owe back balances. [See 24 CFR § 960.203(c)(1)]
- MHA will complete a criminal background check for a period of three years preceding consideration for admission on all applicants and family members 18 years of age or older or any member for whom criminal records are available. MHA will deny admission to any applicant household with one or more members who, within the three years preceding consideration for admission, has been evicted from federally assisted housing for drug-related criminal activity. [24 CFR §§ 960.203 – 960.205]
- MHA will deny admission for a period of three years preceding consideration for admission on all applicants whose lease was terminated.

### 3.3.2 Denial of Assistance for Applicants

MHA will use local and national databases to perform criminal background checks (not including juvenile records) and sex offender registration checks for applicants and additions to households who are 18 years of age and older. MHA will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

MHA will use the date that the applicant completed any related sentence to evaluate eligibility. The applicant must have completed serving any related sentence, including applicable parole or probation period, three years prior to admission. For non-violent offenses, MHA reserves the right to review the applicant's probation and parole sentence on a case-by-case basis. In determining whether to deny or terminate assistance, MHA may take such action if the preponderance of evidence indicates that a family member has engaged in such activity. The fact of an arrest record alone is not a reliable basis upon which to establish a preponderance of arrest. If MHA uses a criminal record report as the basis to deny assistance, MHA will provide the applicant with a copy of the criminal record, if requested, and give the family an opportunity to dispute the record.

- MHA will deny admission to any household member that has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine.
- MHA will deny admission to any household member who has been convicted of drug-related or violent criminal activity within the past three years.
- MHA will deny admissions to any household member is subject to a lifetime registration requirement under a state sex-offender registration program in the state where the housing is located and in other states where the household member is known to have lived.
- MHA will deny admission if MHA has reasonable cause to believe that a household member's use of



illegal drugs or alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

- MHA will deny admissions if MHA has reasonable cause to believe that a household member has engaged, within the past three years, in any criminal activity, violent or non-violent activity that may threaten the health or safety of the other residents, property management staff or MHA employees or their contractors and agents.
- MHA will deny admissions to any applicant that is currently on the MHA Authorization of Agency (AOA) list.

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MHA will use the date that the applicant completed any related sentence to evaluate eligibility. The applicant must have completed serving any related sentence, including applicable parole or probation period, three years prior to admission. For non-violent offenses (See appendix I Definitions), MHA reserves the right to review the applicant's probation and parole sentence on a case-by-case basis. In determining whether to deny or terminate assistance, MHA may take such action if the preponderance of evidence indicates that a family member has engaged in such activity. The fact of an arrest record alone is not a reliable basis upon which to establish a preponderance of arrest. If MHA uses a criminal record report as the basis to deny assistance, MHA will provide the applicant with a copy of the criminal record, if requested, and give the family an opportunity to dispute the record.

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- MHA will deny admissions to any household member is subject to a lifetime registration requirement under a state sex-offender registration program in the state where the housing is located and in other states where the household member is known to have lived.
- MHA will deny admission if MHA has reasonable cause to believe that a household member's use of illegal drugs or alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- MHA will deny admissions if MHA has reasonable cause to believe that a household member has engaged, within the past three years, in any criminal activity, violent or non-violent activity that may threaten the health or safety of the other residents, property management staff or MHA employees or their contractors and agents.
- MHA will deny admissions to any applicant that is currently on the MHA Authorization of Agency (AOA) list.

### 3.3.3 Mitigating Circumstances for Applicants

Consideration of mitigating circumstances does not guarantee that the family will qualify for admission or continued occupancy. If negative information is received about an applicant, MHA shall consider the time,

nature, and extent of the applicant's conduct and factors that might indicate a reasonable probability of favorable future conduct. [24 CFR §960.203(d)] to be factored into MHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified, 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 applicant's prospect for lease compliance is an acceptable one, justifying admission. Mitigating circumstances would overcome or outweigh information already gathered in the screening process. The discussion of mitigating circumstance in this paragraph is applicable to all applicants. MHA is required by regulation to consider mitigating circumstance, see 24 CFR § 960.203(d).

If the applicant asserts that the mitigating circumstances relate to a change in disability, medical condition or course of treatment, MHA shall have the right to refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance. MHA 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 a reasonable accommodation. Examples of mitigating circumstances might include:

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in social service or other appropriate counseling service;
- Evidence of successful and sustained modification of previous disqualifying behavior.
- Evidence of complying with a local, state, or federal offender reentry program.
- Removal of Family Member- The applicant or resident may request removal of the offending family member from the family composition and the family member may not remain on the application nor reside in the Public Housing unit for the family to be assisted in the program.

If the offending family member(s) is not removed, then the entire family shall be recommended for denial of assistance from the Program. In circumstances where the offending family member is the head of household, the entire family shall be recommended for denial of assistance from the Program.

#### 3.3.4 Applicant Interview Process

Each eligibility interview appointment letter must include a list of all the documents required by MHA at the interview. To the greatest extent possible, eligibility interviews are conducted in privacy. Reasonable accommodations will be provided for people with disabilities who may require special services.

Original documents such as birth certificates, social security numbers, pay stubs, and receipts will be reviewed, photocopied, and included in the applicant's file. During the applicant's interview, the eligibility interviewer will compare information received with past information stated on the application. If any discrepancy occurs, the applicant will be questioned and may be asked to submit additional documentation. Applicants failing to submit (1) required documents at the time of the interview or (2) being requested to provide additional documentation will be given a checklist of missing or needed documents to provide them within three (3) business days of the interview. Additional time may be provided if the applicant failed to submit documentation for good cause or if approved by the Division Director or designee.

The Initial Occupancy Application is a personal statement of information required to evaluate the eligibility for selection of the applicant. Information required on the Initial Occupancy Application relates to the following:

- Household composition
- Admission preferences (if applicable)
- Emergency contacts
- Family income
- Family assets
- Child-care expenses
- Disability assistance expenses
- Medical expenses

The applicant family must complete all applicable information spaces on the Initial Occupancy Application. Misrepresentation of income, family composition or any other information affecting eligibility and selection criteria will result in the family being declared ineligible. In the event fraud is discovered after admission, the family may be subsequently evicted, even if the family meets current eligibility requirements at the time.

After MHA has reviewed all information with the applicant at the time of eligibility interview, all adult family members are required to sign the necessary forms such as the Authorization to Release Information, prior to conducting background checks.

## 3.4 Rent Calculation and TTP

### 3.4.1 Family Choice

At admission, and each year in preparation for their annual reexamination, each family is given the choice of having their rent determined under the income method or having their rent set at the flat rent amount.

Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they would otherwise undergo. Their family composition must still be reviewed annually. MHA chooses to conduct a full reexamination annually for flat rent families.

Families who opt for the flat rent may request to have a reexamination and return to the income-based method at any time for any of the following reasons:

- The family's income has decreased.
- The family's circumstances have changed increasing their expenses for childcare, medical care, etc.
- Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.

Families have only one choice per year except for financial hardship cases. For families to make informed choices about their rent options, MHA will provide them with the following information whenever they have to make rent decisions:

- MHA's policies on switching types of rent in case of a financial hardship; and
- The dollar amount of tenant rent for the family under each option. If the family chose a flat rent for the previous year, MHA will provide the amount of income-based rent for the subsequent year only the year MHA conducts an income reexamination or if the family specifically requests it and submits updated income information.

- NPHOI families must pay the alternative rent when they've exceeded the grace period and are allowed by PHA policy the option of remaining in a public housing unit. During the 24 consecutive month grace period and in the 6 months before termination the family will continue to pay their current rent choice amount (i.e., the family's choice of income-base or flat rent, or the prorated rent for mixed families).

#### 3.4.2 The Income Method

The first step in computing rent is to determine each family's Total Tenant Payment (TTP). If the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this computation, if a positive number, is the tenant rent. If the TTP less the utility allowance is a negative number, the result is the utility reimbursement, which is paid to the tenant. The total tenant payment is equal to the highest of:

- 10% of the family's monthly income;
- 30% of the family's adjusted monthly income; or
- If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this provision is the amount resulting from one application of the percentage; or
- The minimum rent of \$50.00 or the NPHOI rent (if applicable).

Tenant rent is computed by subtracting the utility allowance for tenant supplied utilities (if applicable) from the TTP. In developments where MHA pays all utility bills directly to the utility supplier, tenant rent equals TTP.

#### 3.4.3 Minimum Rent

MHA has set the minimum rent at \$50.00. If the family requests a hardship exemption, MHA will process an interim reexamination to suspend the minimum rent beginning the month following the family's request until the Housing Authority can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature. A hardship exists in the following circumstances:

- When the family has lost eligibility for or is waiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; and
- Other circumstances as determined by MHA.

If the Housing Authority determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent for the time of suspension.

If the Housing Authority reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 calendar days from the beginning of the

suspension of the minimum rent. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The Housing Authority will offer a repayment agreement in accordance with of this policy for any rent not paid during the period of suspension. During the suspension period the Housing Authority will not evict the family for nonpayment of the amount of tenant rent owed for the suspension period.

If the Housing Authority determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists. The exemption shall apply from the beginning of the month following the family's request for the hardship exemption until the end of hardship and will be reviewed at least annually. MHA, at its discretion, will request documentation from the residents to verify the type and extent of the hardship.

The family may use the grievance procedure to appeal the Housing Authority's determination regarding the hardship. No escrow deposit will be required to access the grievance procedure.

#### 3.4.4 The Flat Rent

MHA has set a flat rent for each public housing unit. The flat rent is determined annually, based on the market rental value of the unit using one of the following three options:

- Option One: MHA will establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR);
- Option Two: No less than 80 percent of an applicable small area FMR (SAFMR) or 80% of the unadjusted rent<sup>1</sup>, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in the first paragraph of this section. If HUD has not determined an applicable SAFMR or unadjusted rent<sup>1</sup>, MHA will rely on the applicable FMR under the first option or may apply for an exception flat rent under the third option. No other smaller geographical FMRs will be allowed by HUD; (See footnote 1 for HUD's definition of "unadjusted rent" as relates to Flat Rent requirements);
- Option Three: MHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in Options One or Two of this section, subject to the following requirements:
  - MHA must submit an acceptable market analysis of the applicable market.
  - MHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.
  - All requests for exception flat rents under this option must be submitted to and pre-approved by HUD. Upon request, exception rent can be extended up to two additional years by HUD.

MHA will not implement Option Three prior to receiving HUD's written approval. The option chosen to establish the required flat rent will be the sole decision of MHA.

There is no utility allowance for families paying a flat rent because MHA has already factored who pays for the utilities into the flat rent calculation. If the resident pays their own utilities, the calculated flat rent shall be reduced by a reasonable utility allowance based on an energy-conservative household of modest

circumstances. Otherwise, the entire flat rent shall be paid by the resident to MHA.

Annually, no later than 90 days after issuance of new FMRs or SAFMRs by HUD, MHA will compare the current flat rent amount to the applicable FMR and SAFMR/unadjusted rent. If the flat rent is at least 80 percent of the lower of the FMR or SAFMR/unadjusted rent, MHA is in compliance with the law, and no further steps are necessary. If the flat rent is less than 80 percent of the lower of the FMR and SAFMR, MHA will adjust the flat rents at no less than 80 percent of the lower of the FMR or SAFMR/unadjusted rent<sup>1</sup>, subject to the utilities adjustment required for tenant-paid utilities, or MHA may request an exception flat rent pursuant to Option Three, as described above. Revised flat rents will become effective for all families admitted after the flat rent is changed or at the lease renewal for an existing resident.

Note: The unadjusted rent is the FMR estimated directly from the American Community Survey (ACS) source data that HUD uses to calculate FMRs before HUD applies its state non-metropolitan minimum rent policy. HUD maintains a minimum FMR policy within Housing Choice Voucher program (HCV) in response to numerous public concerns that FMRs in rural areas were too low to operate the HCV program successfully. The policy establishes the FMRs at the higher of the local FMR or the State-wide average FMR of non-metropolitan counties, subject to a ceiling rent cap. The rationale for having a state minimum FMR is that some low-income, low-rent non-metropolitan counties have ACS-based FMR estimates that appear to be below long-term operating costs for standard quality rental units and raise concerns about housing quality. State minimum FMRs have been set at the respective state-wide population weighted median non-metropolitan rent level but are not allowed to exceed the U.S. median non-metropolitan rent level.

As for flat rent phase-ins, PIH notice 2022-33 and the subsequent FAQ's, HUD provided flexibility to PHAs to phase in all flat rent increases over a three-year period, including those increases that were 35 percent or less. However, the FY 2015 Appropriations Act provides MHA additional flexibility to establish flat rents at lower amounts, thereby eliminating the need for the three-year phase-in of flat rent increases that are 35 percent or less. Therefore, the only flat rent increases that will be phased-in are those where a family's rent will increase by more than 35 percent prior to any applicable adjustments for utility payments.

Agencies that began phase-ins for families with rent increases at 35 percent or less last year shall follow the actions outlined below at the family's next annual rent option:

- On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option;
  - If the updated flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - If the agency determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, the family may choose to pay the phased-in flat rent amount resulting from the flat rent impact analysis or the previously calculated income-based rent.

Affected families will be given a 30-day notice of any rent change. Adjustments are applied at the end of the annual lease.

MHA will post the flat rents at each of the developments and at the central office. Flat rents are incorporated in

this policy upon approval by the Board of Commissioners.

### 3.4.5 Rent for Families Under the Noncitizen Rule

A mixed family will receive full continuation of assistance if all of the following conditions are met:

- The family was receiving assistance on June 19, 1995;
- The family was granted continuation of assistance before November 29, 1996;
- The family's head or spouse has eligible immigration status; and
- The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

The family's assistance is prorated in the following manner:

Steps for Prorating Assistance for Mixed Families		Example
1	Determine the Total Tenant Payment (TTP) in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)	TTP = \$300
2	Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.	Flat Rent= \$500
3	Subtract the TTP from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("Family Maximum Subsidy").	\$500 -\$300 Family Maximum Subsidy = \$200
4	Divide the Family Maximum Subsidy by the number of persons in the family to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("Eligible Family Member"). The subsidy per eligible family member is the "Member Maximum Subsidy."	\$200 ÷ 4 persons = Member Maximum Subsidy= \$50



5	Multiply the Member Maximum Subsidy by the number of Eligible Family Members. The product of this calculation is the "Eligible Subsidy."	$\$50 \times 3 =$ Eligible Subsidy = \$150
6	The Mixed Family TTP is the maximum rent minus the amount of the Eligible Subsidy.	$\$500 - \$150 =$ Mixed Family TTP= \$350
7	Subtract any applicable utility allowance (UA) from the Mixed Family TTP. The result of this calculation is the Mixed Family Tenant Rent.	UA= \$35 $\$350 - \$35 =$ Mixed Family Tenant Rent= \$315

When the mixed family's TTP is greater than the maximum rent, MHA will use the TTP as the mixed family TTP.

### **Delay, Denial Reduction or Termination of Assistance of Mixed Families**

The PHA must not delay, deny, reduce, or terminate assistance to an applicant or participant based on ineligible immigration status of a family member if any of the following circumstances apply:

- At least one person in the household is a US citizen or an eligible noncitizen who has been verified by CIS.
- The family has submitted the required documents to the PHA timely, but the primary and secondary verification processes have not been completed.
- The family member from whom required documents have not been submitted to the PHA has moved out.
- The family member who is determined not to be in an eligible immigration status following the CIS verification has moved out.
- The CIS appeals process has not been completed.
- Assistance is prorated in accordance with the types of preservation assistance available to mixed families.
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified.
- A deferral of termination of assistance has been granted or;
- For a program participant, the informal hearing process is not complete.

Assistance must be denied or terminated when:

- The family has not submitted the declaration of citizenship or eligible immigration status and appropriate documentation by the specified deadline or any extension.
- The family has submitted the required documentation, but CIS primary and secondary verification do not verify eligible immigration status and the family does not pursue CIS appeal or informal hearing rights, but the decision(s) are rendered against the family; or
- The PHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit on a permanent basis. In this case, the PHA must terminate assistance for the entire family for at least 24 months. This does not apply if the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.



### **Notification of denial due to Citizenship Status**

When a PHA denies or terminates assistance due to a lack of citizenship or eligible immigration status, the PHA must send a written notice to the household which includes the following:

- A statement that financial assistance will be denied or terminated and the justification;
- Notification that the family may be eligible for prorated assistance;
- In the case of a tenant, the criteria and procedures for preserving assistance;
- The right to appeal the results of the secondary verification to the CIS and the procedures to appeal and;
- The right to request an informal hearing from the PHA in lieu of or after a CIS appeal.

In the case of applicants, the notice must advise that the assistance may be provided until the conclusion of the CIS appeal process, however, assistance may be placed on hold until the end of the informal hearing process.

### **Over Income for Mixed Families**

Once a mixed family has exceeded the over-income limit for 24 consecutive months, the family will either have their tenancy terminated or they must pay the alternative rent as an NPHOI family. MHA has a termination policy for over-income families; therefore, mixed families will pay their current, prorated rent amount during the 6-month period before termination. If the mixed family is permitted to pay the alternative rent, then, pursuant to 24 CFR 5.520(d)(1), the mixed family must not receive prorated assistance. Instead, the family must pay the full alternative rent amount.

### **3.4.6 Utility Allowance**

MHA shall establish a utility allowance for all check-metered utilities and for all tenant-paid utilities. The allowance will be based on a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment. In setting the allowance, MHA will review the actual consumption of tenant families as well as changes made or anticipated due to modernization (weatherization efforts, installation of energy-efficient appliances, etc.). Allowances will be evaluated at least annually as well as any time utility rate changes by 10% or more since the last revision to the allowances.

The utility allowance will be subtracted from the family's income-based rent to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to MHA. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belongs to the tenant.

For MHA paid utilities, MHA will monitor the utility consumption of each household. Any consumption in excess of the allowance established by MHA will be billed to the tenant monthly.

Utility allowance revisions based on rate changes shall be effective retroactively to the first day of the month following the month in which the last rate change took place. Revisions based on changes in consumption or other reasons shall become effective at each family's next annual reexamination.

Families with high utility costs are encouraged to contact MHA for an energy analysis. The analysis may identify problems with the dwelling unit that once corrected will reduce energy costs. The analysis can also assist the family in identifying ways they can reduce their costs.

Requests for relief from surcharges for excess consumption of MHA purchased utilities or from payment of utility supplier billings in excess of the utility allowance for tenant-paid utility costs may be granted by MHA on reasonable grounds. Requests shall be granted to families that include an elderly member or a member with disabilities. Requests by the family shall be submitted under the Reasonable Accommodation Policy. Families shall be advised of their right to individual relief at admission to public housing and at time of utility allowance changes.

### **Utility Reimbursements**

Where the utility allowance exceeds the total tenant payment of the family, MHA will provide a utility reimbursement payment. If the family owes any sums to MHA or any other housing authority, MHA may use any utility reimbursement amount owed to the family as payment.

### **3.4.7 Paying Rent**

Rent and other charges are due and payable on the first day of the month. All rents should be paid by the resident to the management office on site. Reasonable accommodations for this requirement will be made for persons with disabilities. As a safety measure, no cash shall be accepted as a rent payment. Residents that pay in person will receive a receipt. All other methods of paying will receive a receipt by mail.

If the rent is not paid by the 5th business day of each month, a Notice to Vacate will be issued to the tenant. In addition, a 10% late charge will be assessed to the tenant. Rent is accepted by check, money order, or cashier's check. Rent may also be paid electronically, where applicable. If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent and will incur the late charge plus an additional charge of \$25.00 for bank charges and/or processing costs.

## **3.5 Over Income**

Beginning March 24, 2019, MHA shall track all public housing residents who have an adjusted income over 120% of the Area Median Income (AMI). This is defined by HUD as 2.4 times the HUD determined Very Low-Income limit for the Housing Authority's jurisdiction. The limit will be adjusted each year within 60 days after HUD published new income limits. When the Housing Authority becomes aware, through an annual reexamination or an interim reexamination of an increase in income, that a family's adjusted income exceeds the applicable income limit, the Housing Authority must, per HUD regulation, document in the family's tenant file that the family exceeds the threshold to compare with the family's income a year later.

If, one year after the initial determination by the Housing Authority that a family's adjusted income exceeds the over-income limit, and the family's adjusted income continues to exceed the over-income limit, the Housing Authority must, as required by HUD regulation, provide written notification to the family that their adjusted income has exceeded the over-income limit for one year. The written notification shall further state that if the family's adjusted income continues to exceed the over-income limit for the next 12 consecutive

months, the family will be subject to EITHER an alternative rent or termination. Per HUD, the alternative rent is either the Fair Market Rent (FMR) or the amount of monthly subsidy provided to the unit, whichever is higher. If the family does not agree to pay the alternative rent, MHA will proceed with termination of assistance and tenancy. **MHA has adopted the policy to terminate OI families.**

If the family is to be terminated, MHA must provide the family 30 days to find alternative housing. If the family does not vacate the unit within the 30-day period, they will be issued a 30-day notice of lease termination. Once the tenant has exceeded the 24 consecutive months, termination is final, and the resident is no longer allowed to remain on the public housing program.

All notices and communications will be provided in a manner appropriate for persons with hearing, visual or other disabilities.

Over-income families may be allowed to reside in this status for a maximum of 24 consecutive months. If MHA discovers through an annual or interim exam that the family's adjusted income falls below the over-income limit, the two-year period starts over again if the family exceeds the limit in the future.

The Housing Authority will follow the requirement to submit an annual report on the number of over-income families and the number of families on the public housing waiting lists when HUD makes the requirement effective through a separate PIH notice.

To determine the income limits for any family, MHA must annually determine the Over Income Limits, adopt those limits, and post those limits at MHA developments and at the end of this chapter. To determine the Annual income limits, MHA is required to obtain them from <https://www.huduser.gov/portal/datasets/il.html>.

**For example:**

**A family of 4 wants to move in, the VLI is \$40,500, the Low-Income Limit is: \$64,800 and the new OIL is \$97,200. You can move the family in as long as their income is below \$64,800 and they would not become over-income until their income exceeds \$97,200.**

**OVER INCOME LIMITS AS OF 5/15/2023**

Family Size	1	2	3	4	5	6	7	8
VLI	28,350	32,400	36,450	40,500	43,750	47,000	50,250	53,500
LMI	45,400	51,850	58,350	64,800	70,000	75,200	80,400	85,550
OIL	68,040	77,760	87,480	97,200	105,000	115,800	120,600	128,400

If a family at an MHA development is admitted to the program as an OIL (Over Income Limit) family the maximum time they may occupy a unit is 24 months from the initial date of occupancy or reexamination.

The following definitions are also reflected in the Glossary section.

**Alternative non-public housing rent (alternative rent)**

The monthly amount a PHA must charge non-public housing over-income (NPHOI) families, if allowed by PHA policy to remain in a public housing unit, after they have exceeded the 24 consecutive month grace period. The alternative rent is defined at 24 CFR 960.102, as the higher of the Fair Market Rent (FMR) or per unit monthly subsidy. The monthly subsidy provided for the unit, is determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund. See 24 CFR 960.102 for more details about how HUD will calculate and publish such funding amounts.

**Non-public housing over-income family (NPHOI family)**

Defined in 24 CFR 960.102 as a family that has exceeded the over-income limit for 24 consecutive months who remains in a public housing unit, as allowed by PHA policy, paying the alternative rent. These families are no longer public housing program participants and are unassisted tenants.

**Over-income family (OI family)**

Defined in 24 CFR 960.102 as a family whose income exceeds the OI limit. This term includes families during the grace period or that are in the period before termination and are still public housing program participants. Note that in the public housing program, this term previously referred to a family that is not a low-income family (i.e., a family with an income exceeding 80 percent Area Median Income (AMI)).

**Over-income limit (OI limit)**

Defined in 24 CFR 960.102. In the regulations, this amount is determined by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4 (i.e., 120 percent of the AMI).

**PHA Plan**

Defined in 24 CFR 903.4(a). It is a comprehensive guide to the public housing agency's policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan: the 5-Year Plan, which each PHA submits to HUD once every 5th PHA fiscal year, and the Annual Plan, which is submitted to HUD every year by non-qualified agencies (non-qualified agencies are PHAs that do not meet the definition of a qualified agency).

**3.5.1 Notification Requirements**

The requirements on notifying OI families are found in the regulations at 24 CFR 960.507(c)(1)-(3). The notice requirements in the final rule supersede the notice requirements discussed in Notice PIH 2019-11, which only required two notices. The new notice requirements do not apply retroactively, so any family that has properly received notice under Notice 2019-11 will not be required to receive new notices per 24 CFR 960.507(c). PHAs must follow the over-income notification process at 24 CFR 960.507(c) for any notices occurring after implementation of the HOTMA final rule. Therefore, a PHA must update their PHA Plan and/or ACOPs accordingly.

[https://www.huduser.gov/portal/datasets/il.html#2022\\_faq](https://www.huduser.gov/portal/datasets/il.html#2022_faq)

PHAs should be aware that with the publication of the final rule, OI families that have completed the 24 consecutive month grace period under the old notification requirements do not get a new grace period.

The required notices under the final rule are as follows:

- In accordance with 24 CFR 960.507(c)(1), the PHA must provide written notice to the OI family no later than 30 days after the PHA's initial determination, stating that the family has exceeded the OI limit as determined pursuant to an annual reexamination or an interim reexamination. The notice must state that:
  - The family has exceeded the over-income limit, and
  - Continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families in accordance with 24 CFR 960.507(d). See 24 CFR 960.507(c)(1) for more information.
- If the PHA determines the family has continued to exceed the over-income limit for 12 consecutive months after the initial OI determination, the PHA must provide written notification pursuant to 24 CFR 960.507(c)(2) no later than 30 days after the PHA's income examination that led to the 12-month over-income determination. The notice must state that:
  - The family's income has exceeded the over-income limit for 12 consecutive months, and
  - Continuing to exceed the over-income limit for the next 12 consecutive months will result in the family either paying the higher alternative rent as a non-public housing over-income (NPHOI) family or termination of their tenancy, depending on the PHA's continued occupancy policies under 24 CFR 960.507(d). This notice should include the estimated alternative rent where applicable (see section 8 to determine the alternative rent). See 24 CFR 960.507(c)(2) for more information.
- If the PHA determines the family has continued to exceed the over-income limit for 24 consecutive months after the initial OI determination, then the PHA must provide written notification pursuant to 24 CFR 960.507(c)(3) no later than 30 days after the PHA's income examination that led to the 24-month over-income determination. The notice must state that:
  - The family has exceeded the over-income limit for 24 consecutive months, and
  - The PHA will either terminate the family's tenancy (in no more than six months) or charge the family the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner), depending on the PHA's continued occupancy policies under 960.507(d). See 24 CFR 960.507(c)(3) for more information.

Once a PHA determines through an annual reexamination or an interim reexamination that a family's income exceeds the applicable OI limit, the PHA must notify the family and make a note in the tenant file to calculate the family's income again 12 months later to see if the family remains over-income. PHAs are required to begin tracking the 24 consecutive month grace period once a family's income exceeds the applicable OI limit.

After the initial OI determination is made, the PHA must conduct an income reexamination 12 months later to determine if the family remains over-income even if the family is paying the flat rent (24 CFR 960.253) and/or the date no longer coincides with the family's original annual reexamination date. An income reexamination to determine if a family remains over-income does not reset the family's normal annual reexamination date. If a PHA discovers through an annual or interim income reexamination during the 24-month grace period that a previously over-income family is now below the over-income limit, the family is no longer over-income. In this case, a previously OI family would be entitled to a new 24 consecutive month grace period if the family's income once again exceeds the OI limit.

Initial Year 2023	2 <sup>nd</sup> Year 2024	3 <sup>rd</sup> Year 2025	4 <sup>th</sup> Year 2026
FI \$163,000	\$80,00	\$85,000	\$179,000
OLI \$162,400	\$172,000	\$175,000	\$178,00

(FILL THE CHART IN AS THE RESIDENT'S INCOME CHANGES EACH YEAR)

The Chart illustrated above shows the tenant family is over income in 2023. The PHA you would send them the notification letter, but their income in 2024 drops so the time period would stop for 2024 and 2025 but would start again in 2026. The property manager will need to chart the income for each over income limit tenant at the property(ies).

#### **Scenario #1 – Uninterrupted grace period**

For example, if a family is determined to be over-income at an interim reexamination, the 24 consecutive month grace period begins. The 24-month 'clock' continues to run if the family remains over-income as determined by another reexamination 12 months later. At the end of the 24th month of the grace period, if the family remains over-income the family will be subject to the over-income policy of the PHA (i.e., termination within 6 months or beginning to pay the alternative rent).

#### **Scenario #2 – Interrupted grace period**

If the family is determined to no longer be OI at any point within the 24-month period, the grace period no longer applies. The family remains an income-eligible public housing program participant. If the family is determined to be OI again in the future, they would be entitled to a new 24 consecutive month grace period. PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. For persons with vision impairments, upon request and free of charge, this may include brailed materials, large print, or materials on tape. For persons with hearing impairments, upon request and free of charge, this may include sign language or other types of interpretation, appropriate auxiliary aids, and services, such as interpreters, transcription services, and accessible electronic communications, in accordance with Section 504 and ADA requirements (24 CFR 8.6 and 24 CFR 8.28; 28 CFR part 35, Subpart E).

#### **3.5.2 Limitation on Public Housing Tenancy**

Once a family exceeds the over-income limit for 24 consecutive months MHA will terminate the tenancy of such family in public housing not later than 6 months after the final notice per 24 CFR 960.507(c)(3) confirming that the family has been over income for 24 consecutive months. Additional details for the above-mentioned process are discussed below.

#### **End of the grace period and Status of an Over-Income Family**

This section describes the actions MHA must take at the end of the grace period for over income families. MHA must ensure that OI families receive a grace period of 24 consecutive months before any adverse action is taken because of the family being over-income (24 CFR 960.507 and 960.509).

Once a public housing family is determined to be over-income pursuant to an annual reexamination or an interim reexamination, the 24 consecutive month grace period begins. At all times prior to the end of 24 consecutive months, the family will continue to be public housing program participants. The change in OI

family status will vary based on the over-income policy selected by MHA.

### **PHA policy terminating the tenancy of Over-Income Families**

**MHA has adopted the policy to terminate OI families.** These families continue to be public housing program participants in the period before termination. It should be noted that while MHA may choose to adopt a policy to terminate the tenancy of an OI family after the 24 consecutive month grace period, termination of tenancy is not equivalent to a judicial eviction. A judicial eviction typically occurs when a tenant fails to vacate the unit after their tenancy has been terminated, resulting in the need for judicial action initiated by MHA to evict the tenant. HUD expects that once an OI family receives proper notice of termination, many will leave voluntarily without necessitating court action. MHA should note that the period before termination can be up to six months but could be less, as defined in the MHA policy.

In the period before termination, the OI family will continue to pay the rent type of their choice (i.e., income-based, flat rent, or prorated rent for mixed families). Additionally, the OI family is still a public housing program participant prior to termination, so the OI family must continue to abide by all program requirements including the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR). Lastly, when an OI family is facing termination after exceeding the grace period, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

### **3.5.3 PHA Requirements for NPHOI Families Remaining in a Public Housing Unit**

If permitted by PHA policy to remain in a public housing unit, an OI family that agrees to pay the alternative rent will become a non-public housing over-income (NPHOI) family. Once given the third and final OI notification as required by 24 CFR 960.507(c)(2), at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner, the family must execute a new lease created for NPHOI families and begin to pay the alternative rent. The family will no longer be public housing program participants and will become unassisted tenants once the new lease is signed.

If the PHA gives a family the option to pay the alternative rent and they decline, the PHA must terminate the tenancy of the family no more than 6 months after the end of the 24 consecutive month grace period. An OI family that declines to pay the alternative rent will continue to be a public housing program participant in the period before termination. As a result, PHAs that choose to permit OI families to remain in public housing units as NPHOI families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.

However, the PHA may permit, in accordance with its OI policies, an OI family to execute the new lease after the deadline, but before termination of the tenancy, if the OI family pays the PHA the total difference between the alternative rent and their public housing rent dating back to the date that is the earlier of 60 days after the date the final notice per 24 CFR 960.507(c)(3) or the date that would have been the next public housing lease renewal.

If the PHA gives a family the option to pay the alternative rent and they accept, going forward the PHA may not conduct an annual reexamination of family income for an NPHOI family, but may offer hearing or grievance procedures at the discretion of the PHA. NPHOI families cannot participate in programs that are only for public housing or low-income families such as participation in a resident council or receive a HUD utility allowance.



Lastly, PHAs are also reminded that NPHOI families are no longer subject to CSSR.

Once the new lease is executed, an NPHOI family may only be readmitted into the public housing program if they once again become an eligible low-income family as defined in 24 CFR 5.603(b) and reapply to the public housing program. The PHA may choose to adopt the new local preference provided at 24 CFR 960.206(b)(6) for NPHOI families. However, the adoption of this preference is at the discretion of the PHA.

### 3.5.2 Determination of the Alternative Rent and the New Lease for NPHOI Families

#### **Alternative Non-Public Housing Rent (Alternative Rent)**

This notice provides additional information and guidelines for PHAs on setting alternative rents for NPHOI families that the PHA has allowed to remain in public housing. The alternative rent is a new definition in 24 CFR 960.102, and it is the monthly amount PHAs must charge NPHOI families after they have exceeded the 24 consecutive month grace period. The alternative rent is defined as the higher of Fair Market Rent (FMR) or per unit monthly subsidy.

The amount of the monthly subsidy provided for the unit, will be determined by adding the per unit assistance provided to a public housing property, as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund, for the most recent funding year. As these amounts will vary by allocation, HUD will publish the Per Unit Subsidy Report annually for all public housing developments by December 31st to help establish the alternative rents for the following calendar year and can be found at:

[https://www.hud.gov/public\\_indian\\_housing/programs/ph/mod/hotma\\_ph](https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph)

Note that the published amount for a development is not automatically the alternative rent. Instead, the PHA must determine what amount to charge as the alternative rent by comparing the per unit subsidy amount for the development where an NPHOI family resides to the applicable FMR for a unit of the same bedroom size in the area. Whichever amount is higher will be the alternative rent applied to the family's new NPHOI lease.

PHAs must update the information in IMS/PIC, and/or HIP (IMS/PIC's successor system) in a timely manner, to ensure that no unit that houses an NPHOI family receives public housing subsidy. Further, PHAs should be aware that since no public housing subsidy may support units occupied by NPHOI families, any delay may result in the PHA owing HUD any improperly calculated subsidy amounts.

#### **NPHOI Lease**

In response to the public comments solicited by the 2020 FR Notice, new regulations have been added at 24 CFR 960.509 regarding the minimum lease requirements for NPHOI families. A PHA may add additional terms to the lease for NPHOI families, so long as it is consistent with HUD regulations, State, and local laws.

PHAs are required to make their leases flexible enough to easily adjust rent as the FMR changes and as HUD publishes the per unit subsidy calculations. For PHAs with an over-income termination policy, in the period before termination, the OI family will remain on the public housing lease. Should an OI family decline to execute the new NPHOI lease, the regulation at 24 CFR 966.4(a)(2)(iii) has been revised so that the public housing lease will become month-to-month for OI families in the period before termination and the PHA must



continue to charge these families their current rent (i.e., the family's choice of income-based, flat rent, or prorated rent for mixed families).

In accordance with 24 CFR 960.507, and as stated in section 7 of this notice, the NPHOI family must execute a new lease and begin to pay the alternative rent. This lease must include the minimal provisions proved in 24 CFR 960.509. Examples of these provisions include:

**Lease term and renewal** - The lease must have a term as determined by the PHA and included in PHA policy. Unlike the public housing lease, a 12-month lease term is not required. PHA's may choose to offer NPHOI families leases on a month-to-month basis.

**Security deposits** - The lease must provide that any previously paid security deposit will be applied to the tenancy upon signing a new lease.

**No automatic lease renewal** - Upon expiration of the lease term, the lease shall not automatically renew.

**Grievance procedures** - The lease may include hearing or grievance procedures and may explain when the procedures are available to the family. However, it should be noted that hearing or grievance procedures for NPHOI families are at the discretion of the PHA. PHAs are required to make their leases flexible enough to easily adjust rent as the FMR changes and as HUD publishes the per unit subsidy calculations. For PHAs with an over-income termination policy, in the period before termination, the OI family will remain on the public housing lease. Should an OI family decline to execute the new NPHOI lease, the regulation at 24 CFR 966.4(a)(2)(iii) has been revised so that the public housing lease will become month-to month for OI families in the period before termination and the PHA must continue to charge these families their current rent (i.e., the family's choice of income-based, flat rent, or prorated rent for mixed families).

### 3.5.3 Unit Tenant Status Category and Sub-Category

The IMS/PIC Development Submodule categorizes units by Unit Tenant Status Categories and Sub-Categories. Per Notice PIH 2021-35, PHAs must ensure that a unit meets the substantive requirements of a Unit Tenant Status Sub-Category for the entire period that it is in that Sub-Category in IMS/PIC. Each Sub-Category corresponds to one of four Categories: Occupied, Vacant, Vacant HUD Approved, and Non-Dwelling.

At this time, PHAs will categorize units occupied by NPHOI families as 'Non-Assisted Tenant Over Income' in IMS/PIC. However, a new sub-category will be created in HIP. When this system is ready, PHAs will categorize units occupied by NPHOI families as 'Non-Public Housing Over-Income (NPHOI) Tenant's.

## CHAPTER 4 – Income Determination

### 4.1 Income, Exclusions and Deductions from Income

To determine annual income, MHA adds the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, MHA subtracts all allowable deductions (allowances) to determine the Total Tenant Payment (TTP).

#### 4.1.1 Annual Income

Annual income means all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded in paragraph (c) of section 24 CFR 5.609.
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

Annual income includes, but is not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of section 24 CFR 5.609. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of section 24 CFR 5.609);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of section 24 CFR 5.609);
- Welfare assistance payments.
  - Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
    - Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

- Are not otherwise excluded under paragraph (c) of section 24 CFR 5.609.
- If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
  - The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
  - The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of section 24 CFR 5.609).
- In determining annual income, MHA may request the family to provide documentation of current income. The family acceptable documentation can be either dated 30 days prior to income determination or 30 days following the date the income documentation is requested.
- Historical Amounts: If MHA is unable to determine annual income using current information because the family reports little to no income or because income fluctuates, MHA may average past actual income received or earned within the last 12 months before the determination date to calculate annual income.
- Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:
  - MHA currently recommends using the following method: Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This method would not require an interim re-examination at the time income decreases since such decreases would already be averaged into the anticipated annual amount.
  - As an alternative method, MHA may annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases.
- If it is not feasible to anticipate income for a 12-month period, MHA may use the annualized income anticipated for a shorter period. For example, this method would be used for teachers who are only paid for ten (10) months, or for tenants receiving unemployment compensation.

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years;
- 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);
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for

- personal or property losses (except as provided in paragraph (b)(5) of section 24 CFR 5.609);
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live-in aide, as defined in § 5.403;
- Subject to paragraph (b)(9) of section 24 CFR 5.609, the full amount of student financial assistance paid directly to the student or to the educational institution;
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- Certain amounts received that are related to participation in the following programs:
  - Amounts received under training programs funded by HUD;
  - 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);
  - Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
  - Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
  - Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- Temporary, nonrecurring or sporadic income (including gifts);
- 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;
- Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- Adoption assistance payments in excess of \$480 per adopted child;
- [Reserved]
- Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
- Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
  - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
  - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
  - Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
  - Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
  - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
  - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);
  - The first \$2000 of per capita shares received from judgment funds awarded by the Indian National Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
  - Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended). See definition of Tuition in Glossary;
  - Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
  - Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
  - Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25

- U.S.C. 1728);
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
  - Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221 (d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
  - Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
  - Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
  - Any allowance paid under the provisions of 38 U.S.C. 1883(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
  - 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(c));
  - Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2)).
  - Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
  - Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
  - Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
  - Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
  - A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
  - Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
  - Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
  - Major disaster and emergency assistance received by individuals and families under the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

- ABLE accounts created under the Achieving a Better Life Experience Act of 2014 (ABLE Act) are excluded from the calculation of both income and assets.

MHA will not provide exclusions from income in addition to those already provided for by HUD. See the Excluded Income Chart in the Verifications section for verification requirements.

#### 4.1.2 Adjusted Income

Adjusted income means annual income (as determined by the responsible entity, defined in § 24 CFR 5.100 and § 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

##### **Mandatory deductions**

In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- The sum of the following, to the extent the sum exceeds three percent of annual income:
  - Unreimbursed medical expenses of any elderly family or disabled family; and
  - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
  - Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

##### **Additional deductions**

For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions. For the HUD programs listed in § 5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

##### **Annualization of income**

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period. Annual income does not include the following amounts specified in the federal regulations currently found in 24 CFR 5.609:

- Income from employment of children (including foster children) under the age of 18 years;
- 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) or payments made under Kin-GAP or similar guardianship care programs for children leaving the juvenile court system;



- Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live in aide;
- The full amount of student financial assistance paid directly to the student or to the educational institution unless it is an athletic scholarship that includes assistance available for housing costs and that portion is included in income;
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- The amounts received from the following programs:
  - Amounts received under training programs funded by HUD;
  - 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);
  - Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out of pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;
  - Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of MHA governing board. No resident may receive more than one such stipend during the same period of time;
  - Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
  - Temporary, nonrecurring, or sporadic income (including gifts). This specifically includes temporary income payments from the U. S. Census Bureau, defined as employment lasting no longer than 180 days per year and not culminating in permanent employment;
  - 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;
  - Earnings in excess of \$480 for each full time student 18 years old or older (excluding the head of household and spouse);
  - Adoption assistance payments in excess of \$480 per adopted child;

While HUD regulations allow for the housing authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of MHA to provide the exclusion in all cases.



#### 4.1.3 Assets

Assets Include:

- Amounts in savings and checking accounts.
- Stocks, bonds, savings certificates, money market funds and other investment accounts.
- Equity in real property or other capital investments. Equity 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.
- The cash value of trusts that are available to the household.
- IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.
- Contributions to company retirement/ pension funds that can be withdrawn without retiring or terminating employment.
- Assets, which, although owned by more than one person, allow unrestricted access by the applicant.
- Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims, deferred SSI and Social Security payments paid in a lump sum.
- Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- Cash value of life insurance policies.
- Assets disposed of for less than fair market value for two years preceding certification or reexamination.

Exclusions from Assets:

- Necessary personal property, except as noted in Section (E)(1)(i) above.
- Interest in Indian Trust lands.
- Assets that are a part of an active business or farming operation. Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the family's main occupation.
- Assets not accessible to the family and which provide no income for the family.
- Vehicles especially equipped for the handicapped.
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

#### 4.1.4 Earned Income Disregard

The Earned Income Disallowance (EID) is the exclusion from the calculation of the family's income, the income increases attributable to new employment or increased earnings, over the income received prior to qualifying for the disallowance.

#### Definitions

The following definitions apply for purposes of this section.

- **Baseline income:** The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of section 24 CFR 5.609 of a person who is a member of a qualified family.
- **Disallowance:** Exclusion from annual income.
- **Previously unemployed:** A person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.
- **Qualified family:** A family residing in public housing:

- 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.

### **Disallowance of Earned Income**

**Initial 12-month exclusion:** During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in § 5.609 of this title) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

**Phase-in of rent increase:** Upon the expiration of the 12-month period defined in paragraph (b)(1) of section 24 CFR 5.609 and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

**Maximum 2-year disallowance:** The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of section 24 CFR 5.609 is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of section 24 CFR 5.609 and a maximum of 12 months for disallowance under paragraph (b)(2) of section 24 CFR 5.609, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of section 24 CFR 5.609.

The disallowance of increased income under this section is only applicable to current residents and will not apply to applicants who have begun working prior to admission, unless their earnings are less than would be earned working ten (10) hours per week at minimum wage, under which they qualify as unemployed.

**Effect of changes on currently participating families:** Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016, will continue to be governed by this section in effect as it existed immediately prior to that date.

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

**Individual Savings Accounts:** As an alternative to the disallowance of increases in income as a result of

employment described in paragraph (b) of section 24 CFR 5.609, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

- The PHA must advise the family that the savings account option is available;
- At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of section 24 CFR 5.609;
- Amounts deposited in a savings account may be withdrawn only for the purpose of:
  - Purchasing a home;
  - Paying education costs of family members;
  - Moving out of public or assisted housing; or
  - Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;
- The PHA must maintain the account in an interest-bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;
- At least annually the PHA must provide the family with a report on the status of the account; and
- If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA.

#### 4.1.5 Receipt of a Letter or Notice from HUD Concerning Income

If a public housing resident receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the person responsible for income verification within thirty (30) calendar days of receipt by the resident.

MHA shall reconcile any difference between the amount reported by the resident and the amount listed in the HUD communication. This shall be done as promptly as possible. After the reconciliation is complete, MHA shall, if appropriate, adjust the resident's rent beginning at the start of the next month. If the reconciliation is completed during the final five (5) calendar days of the month, the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the resident had not previously reported the proper income, MHA shall do one of the following:

- Immediately collect the back rent due to the agency;
- Establish a repayment plan for the resident to pay the sum due to the agency;
- Terminate the lease and evict for failure to report income; or
- Terminate the lease, evict for failure to report income, and collect the back rent due to the agency.

#### 4.1.6 Cooperating with Welfare Agencies

MHA will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

- To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency; and
- To provide written verification to MHA concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

#### 4.1.7 Cooperating with Law Enforcement Agencies

MHA will comply, on a case-by-case basis, with information requests from Federal, State, or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. MHA will supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if available) of any recipient of assistance.

The Federal, State, or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought and may include other personal information used for identification. The request should also comply with the following requirements:

- The law enforcement agency shall notify MHA Housing Authority that the fugitive felon and/or parole or probation violator (i) is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor; or (ii) is violating a condition of probation or parole imposed under Federal or State law; or (iii) has information that is necessary for the officer to conduct his/her official duties;
- The location or apprehension of the recipient is within MHA's official duties; and,
- The request is made in the proper exercise of the law enforcement agency's official duties.

## 4.2 Verifications

As families approach the top of the Waiting List, no earlier than ninety (90) days prior to offer, MHA will begin to verify the following items according to the following MHA's Verification Procedures and in accordance with verification guidance provided by HUD in PIH Notice 2018-24 and any subsequent guidance issued by HUD.

- Family Composition and type
- Social Security Numbers of all Family Members.
- Citizenship or eligible immigration status
- Annual Income
- Assets and Asset Income
- Deductions from Income
- Information used in Applicant Screening

Verification Procedures will be modified as needed to accommodate persons with disabilities. MHA will handle information obtained through the verification process in accordance with MHA's EIV Security policy. Applicants/residents will not be charged for any cost related to verification of information.

#### 4.2.1 Consent Forms

Applicants must cooperate fully in obtaining or providing the necessary verifications. All adult applicants must sign form HUD-9886, Authorization for Release of Information. The purpose of this form is to facilitate automated data collection and computer matching from specific sources. This form covers only release of information on earned income and unemployment income to MHA and IRS/SSA information to HUD. Applicants must also sign the HUD 52675 Debts owed.

Only HUD is authorized to collect information directly from IRS and Social Security Administration.

Adult family members will be asked to sign releases on other forms as needed to collect information to determine family's eligibility and level of assistance. If any family member who is required to sign a consent form fails to do so, MHA will deny admission to applicants and terminate assistance of existing residents. The family may request an informal hearing.

#### 4.2.2 Methods to Verify Information

MHA is authorized by HUD to use five methods to verify family information, in the following order of priority:

- Up-front Verification whenever available
- Third-Party Written Verification
- Third-Party Oral Verification
- Review of Documents
- Self-Certification

When up-front verification is not available, MHA will diligently seek third-party verifications 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 manner. (24 CFR § 960.259(c)(1))

#### **PHA Responsibility for Reexamination and Verification**

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:

- Reported family annual income;
- The value of assets;
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income or income-based rent.

MHA will document the reasons when MHA uses a lesser form of verification than third-party. When legal documents are the primary source, such as birth certificates or other legal documentation of birth, third-party verification is not required.

MHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value. MHA will use review of documents instead of third-party verification when the market value of an asset is less than \$500 annually and the family has original documents that support the declared amount.

When it is known that an income source does not have the ability to provide written or oral third-party verification, e. g., the source's privacy rules prohibit the source from disclosing information, MHA will rely on viewing of documents.

MHA 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 the original documents, MHA will pay the service charge required unless it is not cost effective. (Cost of postage and envelopes to obtain third-party verifications is NOT considered unreasonable cost.)

#### **Self-Certification**

MHA may require a family to certify that a family member does not receive a particular type of income or benefit. The self-certification must be made in a format acceptable to MHA and must be signed by the family

member whose information or status is being verified. Certifications must be signed in the presence of an MHA representative.

### **Verification Documents**

Any family-supplied documents used for verification must be originals, not photocopies, which are no more than sixty (60) days old. Documents must not be damaged, altered, or illegible.

MHA will accept a document dated up to five (5) months before the effective date of the family's re-examination if the document represents the most recent scheduled report from a source, e.g., if the holder of a pension annuity provides semi-annual reports, MHA will accept the most recent report. Printouts from Internet pages are considered original documents.

Staff members who view an 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. The staff member must then sign the copy. Family self-certifications must be made in a format acceptable to MHA and must be signed in the presence of an MHA representative.

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 MHA followed all of MHA's policies and procedures for verification. The documentation should allow a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **Age of Verifications**

Only verified information that is less than ninety (90) days old may be used for certification or re-certification. Verified information that is more than ninety (90) days old must be re-verified before the family is housed. Verified information not subject to change, such as birth dates need not be re-verified at reexamination.

All information provided to MHA relating to incidents of domestic violence, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, will be retained in confidence by MHA and will be neither entered into any shared database nor provided to a related entity, except to the extent that the disclosure is (i) requested or consented by the individual in writing; (ii) required for use in an eviction proceeding or termination of assistance; or (iii) otherwise required by applicable law. All documentation needed for the application or recertification process must be returned within 72 hours to be considered.

### **4.2.3 Social Security Numbers**

Social Security Numbers (24 CFR § 5.210) which states;

§ 5.210 Purpose, applicability, and Federal preemption.

- Purpose. This subpart B requires applicants for and participants in covered HUD programs to disclose, and submit documentation to verify, their Social Security Numbers (SSNs). This subpart B also enables HUD and PHAs to obtain income information about applicants and participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and Federal agencies, in order to verify an applicant's or participant's eligibility for or level of assistance. The purpose of this subpart B is to enable HUD to decrease the incidence of fraud, waste, and abuse in the

covered programs.

- **Applicability**
  - This is subpart B applies to mortgage and loan insurance and coinsurance and housing assistance programs contained in chapter II, Subchapter B, and chapters VIII and IX of this title.
  - The information covered by consent forms described in this subpart involves income information from SWICAs, and wages, net earnings from self-employment, payments of retirement income, and unearned income as referenced at 26 U.S.C. 6103. In addition, consent forms may authorize the collection of other information from applicants and participants to determine eligibility or level of benefits.
- **Federal preemption.** This subpart B preempts any State law, including restrictions and penalties, that governs the collection and use of income information to the extent State law is inconsistent with this subpart.

Families are required to provide a Social Security Number for all family members prior to admission. If a Family member does not have the original Social Security card issued by the Social Security Administration, MHA will accept photo identification and verification of the number from the Social Security Office.

If a child-under-six is added to the family in the six-month period prior to the household's date of admission, then documentation verifying the child's social security information need only be supplied within 90 days of the date of admission. One additional 90-day extension may be added, if the applicant's failure to meet the first timeline was outside his or her control.

#### 4.2.4 Citizenship Verification

Verification of citizenship or eligible immigration status will be carried out in accordance with MHA's Verification Procedures.

In the case of a "Mixed Family" applicant, a member who is a non-citizen not claiming to have eligible status must sign, or must have another family member sign, a certification that they do not have eligible status. If no family member is determined to be either a citizen or an eligible immigrant, the family will be denied assistance.

#### **Restrictions on Denial, Delay or Termination of Assistance**

Assistance may not be denied or delayed (or in case of re-examinations, reduced or terminated) on the basis of immigration status if:

- verification requests were submitted in a timely manner, but Department of Homeland Security has not completed the procedure.
- the family member for whom required evidence has not been submitted has moved from the assisted unit (applicable to re- examinations).
- the family member who is determined not to be eligible following verification process has moved from the assisted unit (applicable to re-examinations).
- the Dept. of Homeland Security appeals process has not been completed (24 CFR § 5.514).
- Assistance is prorated according to 24 CFR § 5.520 for a mixed family see definitions under Citizenship.
- Assistance for a mixed family is continued in accordance with 24 CFR § 5.516 and 5.518 (applicable to re-examinations).



- Deferral of termination of assistance is granted in accordance with 24 CFR § 5.516 and 5.518 (applicable to re-examinations).
- Informal hearing process has not been completed (24 CFR § 5.514)

### **Denial or Termination of Assistance**

Assistance shall be denied (or in the case of existing residents, terminated) if:

- Evidence of citizenship and eligible immigration status is not submitted by the family within the required time frame or within any extension granted.
  - Extensions may be granted, in writing, for no more than thirty (30) days;
  - Denial of extensions will also be in writing, with reasons provided.
- Evidence of citizenship and eligible immigration status was timely submitted but Dept. of Homeland Security verifications do not verify eligible immigration status and
  - family does not pursue Dept. of Homeland Security appeal or informal hearing rights, or
  - Dept. of Homeland Security appeal and informal hearing rights are pursued but final decisions are against the family
- MHA determines that a family member has knowingly permitted another ineligible individual to reside on a permanent basis in the assisted unit (without MHA's knowledge and without the assistance having been prorated because of this individual) In such case, termination will be for at least twenty-four (24) months.)

### **Notice of Denial (or termination)**

Notice shall state:

- that assistance will be denied or terminated and give the reason.
- that family may be eligible for prorated assistance.
- in case of existing resident, the criteria and procedures for obtaining relief under the provisions for preservation of families.
- that family has right to appeal the Dept. of Homeland Security results and submit additional documentation supporting the appeal.
- that family has right to request an informal hearing with MHA either upon completion of Dept. of Homeland Security appeal or in lieu of Dept. of Homeland Security appeal.
- for applicants, that assistance may not be delayed until the conclusion of the Dept. of Homeland Security appeal but may be delayed during the pending of the informal hearing process.

### **Appeal to Dept. of Homeland Security**

After MHA notifies family of the results of the Dept. of Homeland Security verification, the family has thirty (30) days to send to Dept. of Homeland Security for an appeal:

- a cover letter indicating their request for an appeal of the verification results.
- any additional documentation supporting the appeal and a copy of the verification request form used to process the secondary verification.

The family must provide MHA with a copy of the written request and proof of mailing. Within thirty (30) days of receipt of the request, Dept. of Homeland Security will render a decision or notify the family of the reasons



for any delay. Upon receipt of Dept. of Homeland Security decision, MHA will notify the family of its right to request an informal hearing on the ineligibility determination.

### Informal Hearing

The family may request a hearing in lieu of an Dept. of Homeland Security appeal or following it. The family must request the hearing within thirty (30) days of the notice of ineligibility determination based on immigration status by MHA, if it does not wish to appeal to DHS; if it has appealed to Dept. of Homeland Security, then the family must request the hearing within thirty (30) days of the Dept. of Homeland Security appeal decision. The hearing will be conducted according to MHA's informal hearing procedure.

MHA will provide the family with a written final decision and the reasons for that decision, based solely on the facts presented at the hearing, within fourteen (14) days of the date of the informal hearing.

### Retention of documents

MHA will retain for a minimum of five (5) years all of the documents related to the Dept. of Homeland Security appeal or informal hearing process. (24 CFR § 5.514)

#### 4.2.5 Verification Technique Definitions

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification <u>UIV</u></b> , using HUD's Enterprise Income Verification (EIV) system and the <b>Income Validation Tool (<u>IVT</u>)</b> (not available for income verifications of new applicants)	<b>Highest</b> (Mandatory)
5	<b>Upfront Income Verification (<u>UIV</u>)</b> using non-HUD system	<b>Highest</b> (Optional)
4	<b>Written third Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute.)
3	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (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	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (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.

### **Third-Party Verification Techniques**

**Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

**Written Third Party Verification (Level 4):** An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third-party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information. Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations. The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third-party verification form or the best available information.

Note: Documents older than 60 days (from the PHA interview/determination or request date) are acceptable for confirming effective dates of income.

**Written Third Party Verification Form (Level 3):** This is also known as traditional third-party verification. A standardized form to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third-party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e., employers, federal, state and/or local agencies, banks, etc.).

**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 when the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, e.g., ten (10) business days. At least two (2) documented attempts must be made for written third party verification before obtaining oral (telephone or in-person) third party verifications. The file must document the attempts made to obtain third party verification.

## **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.

In support of the applicant/tenant's declaration of income, MHA may review original documents, authenticated copies, and/or electronic documents (unaltered) provided by the applicant or resident. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will have to provide new documents. A photocopy will be placed in the file. Acceptable applicant or resident provided documents include:

- Consecutive and unaltered pay stubs;
- Social Security Administration award letter;
- Bank statements;
- Pension benefit statements;
- TANF award letter;
- Other official and authentic documents from a Federal, State or local agency

If third party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements, written statements witnessed by the MHA representative or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempts have failed.

If the EIV information matches income provided by the resident, or if it is not substantially different, then third-party verification is not necessary. Currently, a substantial difference requiring third party verification is defined as being greater than \$200 per month (\$2,400 per year), unless amended by MHA.

### **Value of Assets**

Each asset must be analyzed to obtain its net value (market/face value less redemption cost). When verifying the value of assets, for example, a bank account, use the current balance for savings account and at least one current bank statement indicating the current balance or two (2) consecutive bank statements to calculate average balance for checking accounts. MHA will accept unaltered documents (bank statements) to verify assets from checking and savings accounts in lieu of obtaining written or oral third-party verifications, if the balance is less than \$5,000. MHA may also accept the Initial Occupancy Application as self-certification on assets less than \$5,000.

### **Income from Assets**

Based on the total net value of family assets. When the total value of assets is \$5,000 or less, MHA will use the actual amount of income from assets. If the only asset is an interest-bearing bank account, the actual income from the asset is the amount of interest earned shown in the last bank statement. When the total value of assets is over \$5,000, use the greater of:

- The actual amount of income from assets, or
- The imputed income from assets based on the Savings National Rate in effect at the time, which is calculated by multiplying the total assets by the passbook savings rate established by MHA (PIH Notice 2012-29). The HUD form 50058 automatically calculates the passbook rate percentage value of the

assets, compares it to the actual income, and picks the greater amount.

### **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 state in part, "...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.

### **What if the tenant does not provide the PHA with requested information**

If the tenant does not provide the requested information, the PHA may mail or fax a third-party verification request form to the third-party source. The PHA is required to request third-party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. In addition, the PHA should remind the tenant that the tenant is required to supply any information requested by the PHA for use in a regularly scheduled or interim reexamination of family income and composition.

The PHA may determine that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner, as prescribed by the PHA.

A	B	C
<b>EXCLUDED INCOME as of 4/14/2022</b>		FORM OF VERIFICATION
(c) Annual income does not include the following:		
(1) Income from employment of children (including foster children) under the age of 18 years;		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;		VERIFICATION NEEDED
24 CFR 5.609(c)		
(5) Income of a live-in aide, as defined in § 5.403;		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;		VERIFICATION NEEDED
24 CFR 5.609(c)		
(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;		VERIFICATION NEEDED
24 CFR 5.609(c)		
(8)(i) Amounts received under training programs funded by HUD;		VERIFICATION NEEDED
A	B	C
24 CFR 5.609(c)		
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);		VERIFICATION NEEDED
24 CFR 5.609(c)		
(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;		VERIFICATION NEEDED
24 CFR 5.609(c)		

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;		VERIFICATION NEEDED
24 CFR 5.609(c)		
(9) Temporary, nonrecurring or sporadic income (including gifts);		
24 CFR 5.609(c)		
A	B	C
(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);		VERIFICATION NEEDED
24 CFR 5.609(c)		
(12) Adoption assistance payments in excess of \$480 per adopted child;		VERIFICATION NEEDED
24 CFR 5.609(c)		
(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		
(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
24 CFR 5.609(c)		

<p><b>AMOUNTS specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.606(c) apply. A notice will be published in the FEDERAL REGISTER identifying the benefits that qualify for this exclusion.</b></p>		
<p>(1) Assistance from section 1780 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(e)) and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1780(b);</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
A	B	C
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(2) Payments from the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f);</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(3) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(4) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency or indemnity compensation in programs authorized under the Native American Housing Assistance and Self- Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(5) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al.</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(6) Federal major disaster and emergency assistance provided to individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(i) The value of the allotment provided to an eligible household under the Food stamp Act of 1977.</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
<p>(ii) Payments to Volunteers under the Domestic Volunteer Service Act of 1973</p>		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		



A	B	C
(iii) Certain payments received under the Alaska Native Claims Settlement Act		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
(iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian Tribes		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
(v) Payments or allowances made under the HHS LIHEAP program		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
(vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
(vii) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court		VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments made under the National School Lunch Act and the Child Nutrition Act of 1966 including reduced price lunches and food under WIC.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments from any deferred Dept. of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.		VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
A	B	C
Amounts of scholarships funded under title IV of the Higher Education act of 1965 including awards under federal work study programs or under the BIA student assistance programs. For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 from private sources or an institution of higher education as defined under the higher education act of 1965 shall not be considered income to that individual if that individual is over the age of 23 with dependent children.		VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments received on or after 1/1/89 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the Agent Orange Liability Litigation.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments received under the Main Indian Claims Settlement Act of 1980.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		



The value of any child care provided or arranged for any amount received as payment for such care or reimbursement for costs incurred for such care under the Child Care and Development block grant of 1990.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Earned income tax credit refund payments received on or after 1/1/1991		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments by the Indian Claims commission to the Confederated tribes and bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
A	B	C
FEDERAL REGISTER VOL 79 #97 5/20/14		
Any amount of crime victim compensation under the Victims of Crime act for payment or reimbursement of the cost of such assistance.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Allowances, earning and payments to individuals participating in programs under the workforce investment act.		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Any amounts in an "individual" development account" as provided by the Assets for Independence Act as amended in 2002 (Pub.L. 107-110, 42 USC 604(h)(4));		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Any allowance paid under the provisions of 38 U.S.C. 1833 (c ) to children of Vietnam Veterans born with spina bifida (38 USC 1802-05), children of women Vietnam veterans born with certain birth defects (38 USC 1811-16) and children of certain Korean service veterans born with spina bifida (38 USC 8121)		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);		PIH NOTICE 2013-4 NO VERIFICATION NEEDED
FEDERAL REGISTER VOL 79 #97 5/20/14		
Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4)		PIH NOTICE 2013-4 NO VERIFICATION NEEDED

THIS CHART IS CURRENT AS OF 4/14/22

## 4.3 EIV Policy

The purpose of this policy is to provide instruction and information to MHA staff, consultants, contractors, and tenants on the acceptable use, disposition, and storage of data obtained through any EIV (Enterprise Income Verification System). MHA defines a system as an external data source that provides information either through computer matching, data storage and retrieval and transmitted either via computer, fax, or e-mail. Data received through the U.S. Mail will also be treated in the same format as EIV data.

This policy will also provide notice for access for dispute of data received from various EIV Systems employed by MHA. Disputes regarding the data will be resolved in accordance with MHA's Grievance Policy and Procedures.

The data in EIV contains personal information on individual tenants that is covered by the Privacy Act of 1974, (SSNs, names, DOBs, SS/SSI benefits, wages, unemployment compensation benefits and new hires (W-4)). It also includes information pertaining to rental history and debts owed to a landlord or another Housing entity. Citizenship status is another verification that is part of EIV. The data provided via any EIV System will be protected to ensure that it is only used for official limited purposes for verifying the employment and income at the time of admission, recertification, and by OIG investigators for investigative purposes. Official use does not include sharing the information with governmental entities not involved in the recertification process used for HUD 's assisted housing programs.

MHA Director, or designated staff, will assure that a copy of Form HUD-9886, (Authorization for the Release of Information/Privacy Act Notice) and HUD 52675 has been signed by each member of the household age 18 years old or older or by a parent or legal guardian for verifications provided to the agency for a minor. All HUD-9886 's and HUD 52675's will be placed in the resident file and will be updated on an annual basis for each tenant or minor in the household. By signing this form, the tenant authorizes MHA to obtain and verify income and unemployment compensation information from various sources including, but not limited to, current and former employers, State agencies, The Work Number, Tenant Tracker, HANNA, Advance HR Solutions, Credit Bureau reports, the IRS, the SSA and other entities that may be indemnified in this policy in the future.

On January 11, 2010, HUD issued Notice H 2010-02, which includes the EIV & You Brochure and the requirement for distribution. Effective January 31, 2010, MHA will provide each tenant with the "EIV & You" brochure at the time of annual recertification, along with a copy of the, " HUD Fact Sheet," "How your Rent is Determined," and the "Resident's Rights and Responsibilities." The "EIV & You" brochure must also be provided to all applicants and to new tenants at move in.

In addition, family members will be required to complete the HUD 52675 form for verification of family history in the Debts Owed Module of EIV.

### 4.3.1 Safeguarding EIV Data

The information processed by any EIV System can include wage and income data about private individuals, as well as identifying information such as Social Security Number, Address, and Employment information. MHA Executive Director, or other designated staff, will have the responsibility of ensuring compliance with MHA security policies and procedures outlined in this document. These responsibilities include:

- Maintaining and enforcing the security procedures;
- Keeping records and monitoring security issues;

- Communicating security information and requirements to appropriate personnel, including coordinating and conducting security awareness training sessions;
- Conducting a quarterly review of all User Ids issued to determine if the users still have a valid need to access the EIV data and taking the necessary steps to ensure that access rights are revoked or modified as appropriate; and
- Reporting any evidence of unauthorized access or known security breaches and taking immediate action to address the impact of the breach including but not limited to prompt notification to appropriate authorities including the HUD Field Office.

#### 4.3.2 Limiting Access to EIV Data

MHA will restrict access to EIV data only to persons whose duties or responsibilities require access. MHA will maintain a record of users who have approved access to the EIV data. Further, MHA will revoke the access rights of those users who no longer require such access or modify the access rights if a change in the user's duties or responsibilities indicates a change in the current level of privilege.

The residents can provide written consent for the following to view EIV information to assist them in their ability to participate in the recertification process:

- Service coordinators have access to the data only if they are present at and assisting the resident with the recertification process.
- Translators/interpreters
- Individuals assisting an elderly individual or a person with a disability.
- Guardians
- Power of attorney
- Other family members

EIV data will be handled in such a manner that it does not become misplaced or available to unauthorized personnel. Files containing EIV information will be labeled clearly with the following statement "CONFIDENTIAL."

#### 4.3.3 Physical Security Requirements

MHA may use a combination of methods to provide physical security for tenant file records. These may include, but are not limited to, locked containers of various types, locked rooms that have enforced perimeters, and a locked building. The EIV data may also be maintained in locked metal file cabinets within a locked room.

Access to the locked file cabinets where EIV files are stored in the office will be limited even during regular working hours. The file cabinets with EIV files will be marked "AUTHORIZED PERSONNEL ONLY -CONFIDENTIAL FILES." The EIV Coordinator will maintain control of the keys to the file cabinet. Locks to the office will be changed or reset whenever an employee leaves MHA.

MHA's EIV Coordinator will establish and maintain the list of users who can access the restricted area. The list will indicate the type of access that the user may have to the restricted area. Tenant record files will never be left out in the open with access to individuals without permission. Tenant record files will not be left on desks at lunch or other times except when being updated by the responsible party.

#### 4.3.4 Computer System Security Requirements

All computer systems and computers will have password-restricted access, password screen saver and MHA will use a firewall to prevent access by unknown persons. MHA will also use Antivirus software to limit data destruction or unintended transmission via viruses, worms, Trojan horses, or other malicious means. The EIV Coordinator will be responsible for maintaining and updating the firewall and anti-virus software as well as applying any security patches for the operating and other computer systems.

Remote access by other computers other than those specifically authorized by a written agreement is prohibited. Written permission to access EIV data will have to be given to contractors on a case-by-case basis only. Violations of the requirement will result in reporting of a security breach and prosecution under the Privacy Act. Access to EIV data on the computer will be restricted to authorized users of the EIV.

Computer repair service personnel and companies will be required to provide the following:

- A confidentiality agreement
- A guarantee that the data stored on any hard drives and other recording media will be destroyed by wiping the drive with a magnet after deleting the information or other program that erases computer data so that it cannot be retrieved.

Users will retrieve computer printouts as soon as they are generated so the EIV data is not left lying unattended in printers where unauthorized users may access them. Authorized users of EIV data are directed to avoid leaving EIV data displayed on their computer screens where unauthorized users may view it. A computer will never be left unattended with EIV data displayed on the screen. If an authorized user is in EIV data and an unauthorized user approaches the work area, the authorized user will lessen the chance of inadvertent disclosure of EIV data by minimizing or closing out the screen on which the EIV data is being displayed.

#### **User Accounts**

User accounts for EIV system will be provided on a need-to-know basis, with appropriate approval and authorization. The level of access granted determines the functionalities, features, and amounts of data that a specified user can see. MHA Access Form will be used to request additions, deletions, or modifications of user accounts with access rights to the EIV system. All MHA employees and contractors who access any EIV system will have a current signed User Agreement on file.

Users will maintain the security of the User Accounts by not disclosing their passwords to other staff members and not sharing user accounts with other employees or contractors. Users will not, deliberately, or inadvertently, override the authorized access levels by providing EIV data to others who have limited or no access to the data.

At no time will any EIV system be accessed to provide information that does not relate to a tenant

#### 4.3.5 Disposal of EIV Information

All EIV data from SSA will be retained in the tenant's file for the duration of tenancy, plus three years from the end of participation date. All EIV printouts containing Nation Directory of New Hires (NDNH) data (employment, wage, and unemployment information) will be retained in the tenant's file for the duration of tenancy, plus three years from the end of participation date. All EIV originals and any documents created in association with their use will be either burned or shredded. Data that is stored on media other than paper will be burned after

the 3-year required period for storage has elapsed. Paper data storage will be shredded or burned after appropriate data storage has expired.

#### **Burning Precautions**

The EIV material may be burned in an incinerator that produces enough heat to burn material and to ensure that all of the material is consumed.

#### **Shredding Precautions**

To make reconstruction more difficult, the EIV data will be shredded using a crosscut micro cut shredder. It is important that a log or register be maintained of all documents that have been burned or shredded.

#### **4.3.6 Security Awareness Training**

Security awareness training is a crucial aspect of ensuring the security of the EIV system and data. Users and potential users will be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of a security or privacy violation.

Before granting MHA employees and contractors' access to EIV information, each employee and contractor must be given a copy of the EIV security policies and procedures. Additionally, all employees having access to EIV data will be briefed at least annually on MHA's security policy and procedures that require their awareness and compliance. MHA EIV Coordinator will keep a record of the Security Training for all users.

On completion of security awareness training MHA will make sure that employees or contractors who access the EIV data have completed an MHA User Agreement or a MHA Contractor Agreement indicating that they are aware of the safeguards and responsibilities associated with using the system. MHA employees will be advised of the penalties associated with the provisions of the Privacy Act of 1974, Section 553 (a), which make unauthorized disclosure or misuse of tenant wage data a crime punishable by a fine of up to \$5,000.00.

MHA EIV Coordinator may communicate security information and requirements to appropriate personnel using a variety of methods outside of the formal training and awareness sessions. These methods may include discussions at group and managerial meetings and Security bulletins posted throughout the work area.

#### **4.3.7 Passwords and Password Changes**

The HUD Secure System, in which EIV is in, requires frequent changes in passwords; these passwords will be recorded and stored in a secure location. It will be required that any password granted to an employee or authorized user will be revoked prior to termination of that employee or user to ensure data safety.

The MHA EIV Coordinator will have the authority to change the password of any employee of the agency including the Executive Director and/or ISM personnel prior to termination. Otherwise, the power to change passwords will reside with the MHA EIV Coordinator.

#### **4.3.8 Record Keeping and Reporting Requirements**

Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV System. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User ID's and passwords. Upon

the discovery of a possible improper disclosure of EIV information or another security violation by an MHA employee or any other person, the individual making the observation or receiving the information will contact MHA's EIV Coordinator and/or the Field Office's Director of Public Housing or Director of Multifamily Housing. MHA Executive Director or designated staff will document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred.

#### 4.3.9 When EIV Income Verification Reports Will be Accessed

EIV Income Reports will be accessed within two to three months of all Annual Recertification's effective dates in case there is an Income Discrepancy that has to be addressed. We will print, review, and utilize the Summary Report, the Income Discrepancy Report, the New Hires Report, and the Income Report for all annual and interim recertifications and the Debts Owed Reports. Copies of all Reports must be maintained in the tenant file. (Note: Once a Summary Report is placed in the tenant file during recertification that shows an Identity Verification of "Verified" for all household members required to have a Social Security Number, the property does not have to continue to print the Summary Report at recertification unless there is a change in household composition or in a household member's identity verification status.) There must be a valid copy of the HUD-9886, HUD-9887 or HUD-9887-A and HUD 52675 in the Resident's file and the form is valid for 15 months from the date of signature. The forms must be signed by each household member who is at least 18 years of age, and each family head, spouse, and co-head regardless of age, in order to view the data contained in EIV. When a resident turns 18, MHA will send them the HUD-9886, or HUD-9887 or HUD-9887-A and the HUD 52675 form to be signed and returned to the office within 30 days. If applicable, an interim adjustment will be completed. If the tenant fails to sign the consent form(s), the household is in non-compliance with their lease and assistance to, and the tenancy of, the household may be terminated (24 CFR 5.232).

MHA may not suspend, terminate, reduce, make a final denial of rental assistance, or take any other adverse action against an individual based on the data in EIV. When the employment and income date in EIV is not the same as reported by the tenant, or when the tenant disputes the EIV data, MHA must independently verify any information by obtaining third party verification directly from the employer or by having the tenant request a current Award Letter for SSA. MHA must notify the tenant of the results of the third-party verification and request the tenant come into the office to discuss the results.

If MHA determines that the tenant had unreported or underreported income, he/she must go back to the point in time the unreported or underreported income started and calculate the amount the tenant owes. A record of this calculation will be provided to the tenant and retained in the tenant's file. MHA must have the 50058 on file that was in effect during the period(s) that the tenant had unreported or underreported income, along with any supporting documentation, in order to calculate the amount, the tenant owes. If MHA does not have this historical information, they cannot go back to the tenant for unreported or underreported income.

#### 4.3.10 Repayment Agreements

Tenants are obligated to reimburse the owner if they are charged a rent less than required by HUD/s rent formula due to not reporting or underreporting income. The tenant is required to reimburse the owner for the difference between the rent he/she should have paid and the rent he/she was charged.

In verified instances of greater than \$200 per month (\$2,400 per year), MHA will require payment in full. If the tenant is unable to pay the amount due, the owner should enter into a repayment agreement with the tenant to collect the funds over a specific period of time. The repayment amount will be renegotiated if the household

income increases or decreases by \$200 or more per month. Tenants are not required to reimburse the owner for undercharges caused solely by the owner's failure to follow HUD's procedures for computing rent or assistance payments.

If MHA finds that the tenant is in non-compliance with their lease because they knowingly provided incomplete or inaccurate information, MHA must follow the guidance for terminating the tenant's tenancy and file for a civil action against the tenant to recover improper subsidy payments. In verified differences of \$10,000 or more and where fraud is suspected, MHA should report this to the HUD OIG Office of Investigation in the District that has jurisdiction in the state the project is located.

#### 4.3.11 When EIV Identity Verification Reports Will be Accessed

This report identifies household members who failed the SSA identity match due to invalid personal identifiers - incorrect SSN, DOB, or last name, as well as identifies deceased household members. EIV Identity Verification Reports will be run monthly. MHA will need to confirm with the affected tenant that their SSN, DOB, and/or last name are correct in PIC. MHA should have third-party verification or documentation to support the tenant's personal identifiers and the accuracy of the PIC data. MHA must correct any incorrect information that may be in the PIC system. If the information in PIC is accurate, MHA will encourage the tenant to contact the SSA to correct any inaccurate data in their databases. Only the tenant can cause a correction in the SSA system.

#### 4.3.12 When Existing Tenant Search Function for Applicants Will be Accessed

When an applicant is being processed for move-in, the Existing Tenant Search function will be accessed before move-in to determine if any applicant is currently residing at another Multifamily Housing or Public and Indian Housing location and receiving rental assistance. If the applicant is residing at another location, MHA should discuss this with the applicant, giving the applicant the opportunity to explain any circumstances relative to his/her being assisted at another location. This may be a case where the applicant wants to move from their existing location. MHA should also follow up with the respective Authority to confirm the individual's program participation status before admission. The report gives the PHA the ability to coordinate move-out and move-in dates with MHA of the property at the other location.

#### 4.3.13 When the Immigration Report Will be Accessed

The Immigration Report assists PHAs with effective monitoring of PHA and tenant compliance with SSN disclosure and reporting requirements, implementation of prorated assistance for mixed families, follow-up of pending verifications of citizenship/immigration status, and follow-up for eligible citizens or non-citizens that have an assigned Alternate ID who need to disclose an SSN to the PHA. This report is required to be monitored monthly and PHAs are required to update the 50058 with any information from the Tenant, SSA, and the SAVE system.

#### 4.3.14 When Deceased Tenant Report Will be Accessed

The Deceased Tenant Report will be accessed quarterly. If the report identifies a current tenant, MHA should confirm with the head-of-household, next of kin or emergency contact person whether or not the person is deceased and, if so, update the family composition on the HUD-50058 to terminate tenancy. Where MHA finds that the tenant is not deceased, MHA should encourage the tenant to contact the SSA to get the discrepancy resolved.



#### 4.3.15 When Multiple Subsidy Report Will be Accessed

The Multiple Subsidy Report will be completed quarterly. This report is to identify individuals who may be receiving multiple rental subsidies. If the report shows that a tenant is being assisted at another location, MHA should discuss this with the tenant, giving the tenant the opportunity to explain any circumstances relative to them being assisted at another location. MHA may provide up to 30 days for the family or household member to show proof of intent to vacate from the other housing or program. MHA will need to follow up with the respective PHA to confirm that the tenant is being assisted at the other location. Depending on the results of this investigation, MHA may need to terminate the tenant's assistance or tenancy.

Assistance will be denied if the participant does not provide proof that they have moved from another housing authority or program before the expiration of the 30 days. A 30-day extension to show intent to vacate or termination of tenancy documentation may be provided in extenuating circumstances and upon good cause.

#### 4.3.16 When New Hires Report Will be Accessed

The New Hires Report will be reviewed and acted upon quarterly. Each applicable tenant will be contacted regarding new employment. The new employment will be verified with the Tenant, and the Tenant will be requested to provide documents to support current income and/or third-party verification from his/her employer, as applicable. An interim recertification will be processed to include the new income, if applicable.

#### 4.3.17 When No Income Report Will be Accessed

The No Income Report will be accessed quarterly. If the EIV Report shows No Income, but the Tenant declares that they do have a source of income, then third-party verification will be used to document the source. The Tenant's file will have a statement from the Tenant disputing the No Income Report and any correspondence/documents to verify the Tenant's statement. If the Tenant declares that they have no income, then they must complete a "Zero Income Questionnaire" form.

#### 4.3.18 Income Report/Income Discrepancy Report

This report will be done at all Annual Recertifications and Interim Certifications. If the Income Discrepancy Report indicates a discrepancy may exist, the file must contain documentation of resolution of the discrepancy, that is, documentation that supports that the discrepancy is valid or invalid. (1) The file documentation must show resolution of the discrepancy at the time of the recertification, or within 30 days of the date on the Income Report. (2) If the discrepancy is determined to be valid, the file must include a copy of the corrected 50058's correcting the error, dating back to the time the unreported or underreported income started, not to exceed 5 years.

#### 4.3.19 HUD 52675 Debts Owed and Terminations

Prior to admission to the program, the PHA must search for each adult family member in the EIV Debts Owed to PHAs and Terminations database. All adult household members must sign the form HUD-52675 once at admission. The form provides notification to adult household members that debt and terminations information will be collected, shared with other PHAs and will be accessible by HUD staff, PHA staff, and contractors to determine suitability for rental assistance. The Debts Owed to PHAs & Termination Report may be generated in EIV as a standalone report; the information from the report also is contained in the Income Report for each household.

If any information on debts or terminations is returned by the search, the PHA will determine if the offenses



violate their respective admissions policies. The family has a right to request and obtain a copy of the report from the PHA and dispute the reported information, providing any supporting documentation. To ensure the availability of records, disputes of the original debt or termination information must be made within three years from the end of participation date, unless a reasonable accommodation to this policy is made; otherwise, the debt and termination information will be presumed correct.

If the EIV information shows that a family or household member was a former MHA tenant, left a debt after moving from another housing authority or program, or was terminated for adverse reason(s), the family will be responsible for clearing the debt or termination information within 30 calendar days. Assistance will be denied if the family cannot or does not provide proof of debt cancellation or reversal of the termination prior to the expiration of the 30 calendar days.

Only the PHA who reported the adverse information can delete or correct the record. The PHA has 30 days from receipt of the written dispute to provide notification of its action—either to update or delete the record if the PHA determines the information is incorrect or to provide an explanation as to why the information is correct.

#### 4.3.20 Income Report – 90 Days After Move-In

This report will be run no more than 90 days after a move-in certification is submitted to PIC. In case of an income discrepancy, it will be handled as stated in paragraph #12 above.

#### 4.3.21 Master File

A "Master File" that contains a copy of the following reports printed, reviewed, and resolved in accordance with the property's EIV Policies and Procedures: New Hires Summary Report, Identity Verification Reports (Failed EIV Pre-Screening Report and Failed Verification Report), Multiple Subsidy Summary Report and Deceased Tenants Report and Debts Owed. These Reports will be retained for three years.

#### 4.3.22 Identity Theft: How Identity Theft Will be Investigated/Addressed

##### **Documentation for Identity Theft**

When tenant disputes data, the tenant should indicate in writing the reason for dispute and provide supporting documents for identity theft:

- Copy of police report (not a police report number); or
- Notice from credit bureau regarding fraud alert placed on credit report or copy of credit report with fraud alert notice; or
- Copy of identity theft report filing with the Federal Trade Commission; and
- Copy of tenant's letter sent to the employer to dispute information and request for correction; and
- Any correspondence the tenant received from the employer.

If tenant believes that they are the victim of identity theft, the tenant should take the following three steps as soon as possible, and keep a record with the details of conversations and copies of all correspondence.

- File a report with the local police or the police in the community where the identity theft took place. Then, get a copy of the police report. The tenant should provide the PHA with a copy of the report. If the police are reluctant to make a report, the tenant may ask to file a "Miscellaneous Incidents" report or try another jurisdiction, such as the state police.
- The tenant should place a fraud alert on their credit reports and review their credit reports. Fraud alerts

can help prevent an identity thief from opening any more accounts in the tenant's name. Tenants can contact the toll-free fraud number of any of the three consumer reporting companies below to place a fraud alert on their credit report. The tenant only needs to contact one of the three companies to place an alert. The company they call is required to contact the other two, which will place an alert on their versions of their report, to:

- Equifax: 1-800-525-6285; [www.equifax.com](http://www.equifax.com); P.O. Box 740241, Atlanta, GA 30374- 0241
  - Experian: 1-888-EXPERIAN (397-3742); [www.experian.com](http://www.experian.com); P.O. Box 9532, Allen, TX 75013
  - TransUnion: 1-800-680-7289; [www.transunion.com](http://www.transunion.com); Fraud Victim Assistance Division, P.O. Box 6790, Fullerton, CA 92834-6790
- File a complaint with the Federal Trade Commission. By sharing their identity theft complaint with the FTC, they will provide important information that can help law enforcement officials across the nation track down identity thieves and stop them. The FTC can refer victims' complaints to other government agencies and companies for further action, as well as investigate companies for violations of laws the agency enforces.
    - Tenants can file a complaint with the FTC using the online complaint form at <https://rn.ftc.gov> or call the FTC's Identity Theft Hotline, toll-free: 1-877-ID-THEFT (438-4338); TTY: 1-866-653-4261; or write Identity Theft Clearinghouse, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 2058. Tenants can call the Hotline to update their complaint if they have any additional information or problems.
    - Resource: Federal Trade Commission -[www.ftc.gov](http://www.ftc.gov)

#### **Documentation for Employer Reporting Error**

When the tenant disputes data, the tenant should provide documentation to support the claim of incorrect data, such as:

- Copy of tenant's letter sent to the employer to dispute information and request for correction.
- Any correspondence the tenant received from the employer.

## Chapter 5 - Reexaminations

### 5.1 Discrepancies, Errors, and Fraud Policy

To promote income and rent integrity, MHA must investigate and research discrepancies and possible errors. MHA must use the HUD's EIV system as a tool to identify possible discrepancies in income reported by the tenant as well as identifying tenants who may be deceased or receiving assistance at more than one location or under more than one HUD rental assistance program.

#### 5.1.1 Program Violations

When owners identify an error involving a tenant, they should first determine if the error constitutes a program violation. A program violation occurs when the tenant by action or inaction breaches a lease, regulation, or other program requirement. Tenant errors occur because tenants misunderstand or forget rules. Tenant errors are thought of as an unintentional program violation.

#### 5.1.2 Investigating and Discovering the Facts

If MHA suspects that a tenant has inaccurately supplied or misrepresented information that affects the tenant's rent or eligibility, the MHA must investigate and document the tenant's statements and any conflicting information the MHA has received. To research questionable information, the MHA may:

- Confront the tenant with the tenant's information and any conflicting information;
- Obtain additional information from other persons or agencies;
- Take other actions to verify either the tenant's information or the conflicting information; and
- MHA may not suspend, terminate, reduce, or make a final denial of any benefits or a tenant until MHA has taken appropriate steps to independently verify the tenant's information or the conflicting information.

#### 5.1.3 Notifying and Meeting with the Resident

After gathering the documentation, MHA must notify the tenant in writing of the error and identify what information is believed to be incorrect. The tenant must have an opportunity, within 10 days, to meet with the MHA and discuss the allegations. MHA must also inform the tenant that failure to do so may result in the tenant's termination of tenancy.

The meeting with MHA must be with a designated representative who has not been involved in any manner with the review of the allegedly false information.

MHA must provide a written final decision, based solely on the facts presented and discussed at the meeting to the tenant within 10 days of the date of the meeting. The decision must also state the basis for the determination. For tenants with a disability, the notice must be in a form accessible to the tenant, and the meeting must be held in a location accessible to the tenant.

#### 5.1.4 Determining the Outcome of the Investigation

If the tenant meets with MHA to discuss the error and MHA is convinced the tenant's submissions were correct, MHA should document the file accordingly and close the investigation.

If, after meeting with the tenant, MHA determines that the provision of inaccurate information was an unintentional program violation, MHA should correct the tenant's rent, if applicable, and provide the tenant with notice of the change in rent. If the tenant is unable to repay the full amount, MHA and tenant should enter

into a repayment agreement.

If, after the income adjustment, the tenant is over-income, the tenant may remain in the property, subject to making repayments, for 24 consecutive months. MHA may terminate tenancy if the tenant refuses to pay the new monthly rent or refuses to repay the previously overpaid subsidy/rent pursuant to the repayment agreement. If necessary, civil action may be filed to recover the funds.

If the MHA determines the tenant knowingly provided inaccurate or incomplete information, and this can be substantiated through documentation, the MHA needs to pursue the incident as fraud.

#### 5.1.5 Procedures for Addressing Fraud

Some investigations may lead to the discovery of efforts by tenants or other parties to mislead MHA and, possibly, to commit fraudulent acts that result in the receipt of benefits or rent subsidies for which the tenant is not eligible. If after following the procedures for investigating and researching questionable information, MHA may determine that the tenant has knowingly provided inaccurate or incomplete information and will pursue the incident as fraud.

#### **Criminal Violation (Fraud)**

A criminal violation would be fraud, which is considered deceit or trickery deliberately practiced gaining some advantage dishonestly. Fraud is an intentional deception; it cannot be committed accidentally.

#### **Documenting Fraud**

To establish fraud, the tenant file must contain documentation showing the following:

- The tenant was made aware of program requirements and prohibitions (i.e., all appropriate signatures are on the intake documents); and
- The tenant intentionally misstated or withheld some material information. The strongest proof of fraud is an admission by the tenant. Fraudulent intent can also be demonstrated by documentation that:
  - The act was done repeatedly (i.e., not a one-time or accidental occurrence), or there was prior determination of fraudulent intent or conviction (e.g. signing false HUD- 50058's);
  - False names or social security numbers were used
  - The tenant falsified, forged, or altered documents;
  - The tenant omitted material facts that were known to the tenant (e.g., employment of self or other household members; or
  - The tenant made admission to another person of the illegal action or omission (e.g., boasting that he/she cheated, or telling an employer or neighbor that an "absent spouse" has moved as a tenant).

#### 5.1.6 Taking Action to Address Fraud

When fraud is present, the authorized course of action for MHA to take is termination of tenancy. An MHA authority to pursue eviction in case of tenant fraud is grounded in the material noncompliance provision contained in the public housing lease. Material noncompliance includes "knowing providing incomplete or inaccurate information."

Fraud can be handled as a civil violation by using it as grounds for a termination of tenancy. Providing false information is a material noncompliance with the lease. MHA must seek recovery for subsidy/rent overpayment by asking the court for judgment against the tenant.

Fraud is handled as a criminal violation when a local or federal prosecutor decides to prosecute the tenant for violation of a state or federal law. To convict the tenant, the prosecutor must show the court that the case contains all the elements of criminal fraud.

When a tenant is evicted for material noncompliance for submitting false, incomplete, or inaccurate information on household income or family composition required for certification or recertification, MHA must file a civil action against the tenant to recover improper subsidy payments. MHA may consider referring the case for prosecution as a criminal violation, if applicable. Prosecution may be pursued on the local, state, or federal level.

MHA may recommend terminating assistance for fraud as opposed to tenant error. Fraud includes but is not limited to forgery and pattern of unreported or under reported income. In verified differences of \$10,000 or more and when fraud has occurred, upon division director or designee's approval, MHA may refer the case to OIG or any other law enforcement organization with jurisdiction to investigate and prosecute fraud in assisted housing, prior to commencement of the eviction process.

In verified instances of greater than \$200 per month (\$2,400 per year), MHA will require payment in full or may allow the family to enter into a repayment agreement for the balance owed. Should the family refuse to enter into a repayment agreement or to fulfill its obligations under its repayment agreement, MHA shall recommend termination of assistance. This will start the eviction process.

## 5.2 Reexaminations

At least annually, MHA will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family is housed in the correct unit size. Residents who meet the following criteria will be eligible for continued occupancy:

- Qualify as a "Family" as defined in Glossary and Acronyms chapter of this ACOP.
- Are in good standing (Glossary and Acronyms) full compliance with the resident obligations and responsibilities as described in the dwelling lease.
- Whose family members of all ages, each have Social Security numbers or have certifications on file indicating they have no Social Security number.
- Who meet HUD standards on citizenship or immigration status or are paying a pro- rated rent.
- Who follows MHA's minimum of eight (8) hours per month for a total of ninety- six (96) hours annually of Community Service Requirements.

Residents not in compliance with these criteria are subject to lease termination and eviction.

Recertification occurs annually on the anniversary of the resident's original program admission month. Residents will typically keep the same recertification month as their original admission date when transferring to a new unit. If transferring to a unit that is both public housing **and** tax credit, the resident's annual recertification month will update to match the tax credit move-in month.

Failure to recertify annually will result in the tenant's termination from the public housing program in accordance with 24 CFR 960.257.

### 5.2.1 Reexamination Interviews

MHA will send a notification letter to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either the flat rent or income method, and scheduling an appointment if they are currently paying an income rent. If the family thinks they may want to switch from a flat rent to an income rent, they should request an appointment. At the appointment, the family can make their final decision regarding which rent method they will choose. The letter also includes, for those families paying the income method, forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy and other forms required by HUD. During the appointment, MHA will determine whether family composition may require a transfer to a different bedroom size unit, and if so, the family's name will be placed on the transfer list.

Employment, income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be documented and filed in the resident's folder. An Enterprise Income Verification (EIV) Report will be run on each family at recertification to help detect any unreported income, etc. Verified information will be analyzed and a determination made with respect to:

- Eligibility of the resident as a family or as the remaining member of a family;
- Unit size required for the family (using the Occupancy Guidelines); and
- Rent the family should pay.

Residents with a history of employment whose regular reexamination takes place at a time that they are not employed will have income anticipated based on past and anticipated employment. Residents with seasonal or part-time employment of a cyclic nature will be asked for third party documentation of the circumstances of their employment including start and ending dates.

Also, during the recertification, each household shall be asked whether any member is subject to the lifetime registration requirement under a state registration program. The Housing Authority will verify this information using the Dru Sjodin National Sex Offender Database and document this information in the same method used at admission. For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and Other Criminal Activity final rule), if the recertification screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, the Housing Authority will pursue eviction of the household.

If a family is about to be evicted from housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the eviction occurs.

### 5.2.2 Missed Appointments

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview within the same month, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in MHA taking eviction actions against the family.

### 5.2.3 Rent Options

#### Annual Choice by Family

Once a year, MHA must give each family the opportunity to choose between the two methods for determining the amount of tenant rent payable monthly by the family. The family may choose to pay as tenant rent either a flat rent as determined in accordance with paragraph (b) of this section, or an income-based rent as determined in accordance with paragraph (c) of this section. Except for financial hardship cases as provided in paragraph (d) of this section, the family may not be offered this choice more than once a year.

Regardless of whether the family chooses to pay a flat rent or income-based rent, the family must pay at least the minimum rent as determined in accordance with § 5.630 of this title.

#### Flat Rent

The flat rent is determined annually, based on the market rental value of the unit as determined by this paragraph (b).

- MHA must establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR) as determined under 24 CFR part 888, subpart A; or
- HUD may permit a flat rent of no less than 80 percent of an applicable small area FMR (SAFMR) or unadjusted rent, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in paragraph (b)(1) of this section. If HUD has not determined an applicable SAFMR or unadjusted rent, MHA must rely on the applicable FMR under paragraph (b)(1) or may apply for an exception flat rent under paragraph (b)(3).
- MHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in paragraphs (b)(1) and (2) of this section, subject to the following requirements:
  - MHA must submit a market analysis of the applicable market.
  - MHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by MHA in accordance with the lease.
  - All requests for exception flat rents under this paragraph (b)(3) must be submitted to HUD.
- For units where utilities are tenant-paid, MHA must adjust the flat rent downward by the amount of a utility allowance for which the family might otherwise be eligible under 24 CFR part 965, subpart E.
- MHA must revise, if necessary, the flat rent amount for a unit no later than 90 days after HUD issues new FMRs.
- If a new flat rent would cause a family's rent to increase by more than 35 percent, the family's rent increase must be phased in at 35 percent annually until such time that the family chooses to pay the income-based rent or the family is paying the flat rent established pursuant to this paragraph.
- The revised Flat Rents will be applied to new admissions upon the revision's effective date; however, when a current Public Housing resident chooses Flat Rent, their rent shall not be adjusted until the next regular annual reexamination.
- Flat rent reexaminations for family's income may occur every 3 years for a family that chooses the flat rent option. The PHA will not apply the 3-year reexamination provision to families that are over income. MHA may choose to conduct rent reexaminations for family income annually.



### **Income-Based Rent**

An income-based rent is a tenant rent that is based on the family's income and MHA's policies for determination of such rents. MHA rent policies may specify that MHA will use a percentage of family income or some other reasonable system to determine income-based rents. The income-based tenant rent must not exceed the total tenant payment (§ 5.628 of this title) for the family minus any applicable utility allowance for tenant-paid utilities. If the utility allowance exceeds the total tenant payment, MHA shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

MHA may elect to establish policies regarding the frequency of utility reimbursement payments for payments made to the family. MHA will have the option of making utility reimbursement payments not less than once per calendar-year quarter, for reimbursements totaling \$45 or less per quarter. In the event a family leaves the program in advance of its next quarterly reimbursement, MHA must reimburse the family for a prorated share of the applicable reimbursement. MHAs exercising this option must have a hardship policy in place for tenants. If MHA elects to pay the utility supplier, MHA must notify the family of the amount of utility reimbursement paid to the utility supplier.

### **Earned Income Disallowance (EID)**

The family qualifies for the disallowance of an eligible increase in earned income for a consecutive 24 months. The first 12-month period of 100% income disallowance begins when the income change is effective. At the end of the first 12-month period of 100% income disallowance, an adjustment of the rent shall be made for the second 12-month period to factor a 50% income disallowance.

### **Information for Families**

For the family to make an informed choice about its rent options, MHA must provide sufficient information for an informed choice. Such information must include at least the following written information:

- MHA's policies on switching type of rent in circumstances of financial hardship, and
- The dollar amounts of tenant rent for the family under each option, following the procedures in paragraph (f) of this section.

### **Choice Between Flat and Income-Based Rent**

Families must be offered the choice between a flat rental amount and a previously calculated income-based rent according to the following:

- For a family that chooses the flat rent option, MHA must conduct a reexamination of family income and composition at least once every three years.
- At initial occupancy, or in any year in which a participating family is paying the income-based rent, MHA must:
  - Conduct a full examination of family income and composition, following the provisions in § 960.257;
  - Inform the family of the flat rental amount and the income-based rental amount determined by the examination of family income and composition;
  - Inform the family of MHA's policies on switching rent types in circumstances of financial hardship; and
  - Apply the family's rent decision at the next lease renewal.

In any year in which a family chooses the flat rent option but MHA chooses not to conduct a full examination of family income and composition for the annual rent option under the authority of paragraph (f)(1) of this section, MHA must:

- Use income information from the examination of family income and composition from the first annual rent option;
- Inform the family of the updated flat rental amount and the rental amount determined by the most recent examination of family income and composition;
- Inform the family of MHA's policies on switching rent types in circumstances of financial hardship; and
- Apply the family's rent decision at the next lease renewal.

#### **Switch From Flat Rent to Income-Based Rent Because of Hardship**

A family that is paying a flat rent may at any time request a switch to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship. MHA must adopt written policies for determining when payment of flat rent is a financial hardship for the family.

If MHA determines that the family is unable to pay the flat rent because of financial hardship, MHA must immediately allow the requested switch to income-based rent. MHA shall make the determination within a reasonable time after the family request. MHA policies for determining when payment of flat rent is a financial hardship must provide that financial hardship include the following situations:

- 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, childcare, transportation, education, or similar items; and
- Such other situations determined by MHA to be appropriate.

#### **5.2.4 Interim Reexaminations**

During an interim reexamination, only the information affected by the changes being reported will be reviewed and verified. Families are required to report the following changes to MHA between regular reexaminations. The family shall report these changes within ten (10) calendar days of their occurrence.

- A member has been added to the family through birth or adoption or court-awarded custody.
- A household member is leaving or has left the family unit.

In order to add a household member other than through birth, adoption, or court-awarded custody, the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security number and must verify their citizenship/eligible immigrant status. (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family.) The new family member will go through the screening process similar to the process for applicants. MHA will determine the eligibility of the individual before adding them to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, their name will be added to the lease. At the same time, if the family's rent is being determined under the income method, the family's annual income will be recalculated taking into account the circumstances of the new family member. The effective date of the new rent will be in

accordance with Section 15.8.

A resident requesting a live-in-aide will be required to provide verification of the need for a live-in-aide. In addition, before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. MHA will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review. Under no circumstances will the live-in-aide be added to the lease or be considered the last remaining member of a tenant family.

*NPHOI families are not subject to income reexaminations. Unless there is a financial hardship or other hardship as indicated above.*

If the family's rent is being determined under the income method, these changes will trigger an interim reexamination. The family shall report these changes within thirty (30) calendar days of their occurrence. Residents must request an interim reexamination of rent due to an increase in income. Income changes for increase in income need to be submitted to the office within 30 calendar days of the change.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income lasting longer than 30 days, an increase in allowable expenses, or other changes in family circumstances. Upon such request, MHA will take timely action to process the interim reexamination and recalculate the tenant's rent.

#### 5.2.5 Special Reexaminations

If a family's income is too unstable to project for twelve (12) months, including families that temporarily have no income (0 renters) or have a temporary decrease in income, MHA may schedule special reexaminations every 90 calendar days until the income stabilizes and an annual income can be determined.

#### 5.2.6 Effective Date of Rent Changes Due to Interim or Special Reexaminations

Residents will be notified of any rent change in writing. Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

#### 5.2.7 Changes in the Household and Visitors

Only those people listed on the most recent certification form and lease shall be permitted to occupy a dwelling unit. Any family seeking to add a new member to the household composition must notify the Property Manager or designee. The family must obtain written approval before the new member moves in, except for natural

births to a family member or when a family member adopts or receives custody of children by the courts or other operations of law.

When a resident requests approval to add a new person to the Lease, MHA will conduct pre-admission screening, including criminal background (excluding juvenile records), eligible immigration status, and sex offender registration checks, of any proposed new member 18 years of age and over, to determine whether MHA will grant such approval. MHA will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. Minor children for whom juvenile justice records are not made available or added through a formal custody award or kinship care arrangement are exempt from the pre-admission screening process, although the resident needs prior approval from MHA to add children other than those born to, adopted by, or awarded by the court to the family. MHA may also conduct a credit check of any proposed new member 18 years of age and over if deemed necessary.

All persons listed on the most recent certification form and the Lease Agreement must use the dwelling unit as their sole residence. In cases of joint custody, where the families have 50-50 custody, the child shall live with both families as required by the court; however, the families must decide amongst themselves, and notify MHA, as to under which family's Lease the child shall be listed for reporting purposes.

Residents who fail to notify MHA of additions to the household or who permit persons to join the household without undergoing screening are in violation of the lease agreement. Such persons will be considered unauthorized occupants by MHA and the entire household will be subject to eviction.

Visitors may be permitted in a dwelling unit so long as the visitors have no previous history of behavior on MHA premises that would be a lease violation. Visits of less than three days need not be reported to or approved by the Property Manager. Visits of more than three and less than fourteen days are permitted, provided they are reported to the Property Manager within 72 hours and authorized by the Property Manager. Visitors remaining beyond this period shall be considered trespassers and the head of the household shall be guilty of a breach of the lease. In accordance with the lease, roomers and lodgers shall neither be permitted to occupy a dwelling unit, nor shall they be permitted to move in with any family occupying a dwelling unit. Violation of this provision is ground for termination of the lease.

Residents will not be given permission to allow a former resident of MHA who has been evicted or terminated to occupy the unit for any period. Violation of this requirement is ground for termination of the lease.

Examples of situations where the addition of a family or household member is subject to pre-admission screening are:

- Residents requesting to add their spouse, domestic partner, or new family member to the Lease;
- Resident requesting to add a household member (e.g., live-in aide, foster adult or take in a foster children(ren)); or
- Unit is occupied by a remaining family member(s) under age 18, who is not an emancipated minor, or an adult, not a part of the original household, requests permission to take over as the head of the household.

### 5.2.8 Removals from the Family Composition

Any adult family member requesting to be removed from the family composition must sign a statement agreeing to the removal. If unable to sign the statement, then the head of household must sign the statement

explaining why the family member is unable to sign the statement (death, jail order, etc.).

The statement must be accompanied by supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, or City government agency) properly dated (no more than two (2) months old), showing the new address. MHA may request additional documentation to verify the permanent relocation of the family member requesting removal.

For removal of minors, the head of household must provide a signed statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two (2) months old), showing the new address.

Notwithstanding the foregoing, a statement will not be required of an adult family member who has violated the terms of this ACOP, the Lease, and as a result must be removed from the household in lieu of evicting all members of the household. Examples include a member of the household who has engaged in domestic violence, dating violence, sexual assault or stalking.

#### 5.2.9 Remaining Family Members

To be considered the remaining member of a family, any person(s) remaining must meet all eligibility requirements.

Remaining family members aged 18 years or older will be held responsible for any overdue amount incurred by the former head, co-head, or spouse. MHA will not hold remaining family members (other than the head, co-head, or spouse) responsible for any portion of the overdue amount incurred before the remaining member attained age 18. Remaining family members under age 18 shall not be held responsible for the overdue rent incurred by the former head of household.

A live-in aide or foster child/adult, by definition, is not a member of the family and will not be qualified for continued occupancy as a remaining family member.

For (a) minor child(ren) to continue receiving assistance as (a) remaining member(s), one of the following must occur:

- The court has awarded emancipated minor status to the minor;
- MHA has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child(ren); or
- MHA may allow for another adult to be a temporary head of household until legal guardianship is granted or a minor, at least 17 years of age, is emancipated or reaches age 18.

A reexamination will be conducted and appropriate changes to the bedroom size may be made at that time.

#### 5.2.10 Unauthorized Occupants/Boarders

Only authorized residents are permitted to use the unit as their private dwelling and shall not use it for any other purpose. In cases where MHA obtains sufficient evidence of unauthorized occupants/boarders or users of the subsidized unit's address (e.g. in their driver's license, identification card or as a mailing address), if the

finding is denied by the head of household, then the head of household will be required to provide a written statement accompanied by supporting documentation from different sources showing the residential address of the unauthorized occupant/boarder or user.

Supporting documentation to prove another residency may include a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, MHA or City government agency) properly dated (no more than two (2) months old), showing another address. The unauthorized person's driver's license or identification card may not be used as valid proof of residential address.

Family members over the age 17 or emancipated minors who move from the dwelling unit to establish new households shall be removed from the Lease. The resident shall report the move-out within ten (10) calendar days of its occurrence. Family members over the age of 17 or emancipated minors may not be readmitted to the unit and must apply as a new applicant household for placement on the waiting list.

Residents who fail to notify MHA within 10 days of additions to the household, or who permit people to join the household without undergoing screen, are in violation of the Lease. People added without MHA approval will be considered unauthorized occupants and the entire household will be subject to eviction.

#### 5.2.11 Action Following Reexamination

If there is any change in rent, the lease will be amended, or a new lease will be executed, or a Notice of Rent Adjustment will be issued. If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described in this policy and moved to an appropriate unit when one becomes available.

The Lease will NOT be revised to permit a change of family composition resulting from a request to allow adult children to move back into the unit unless it is determined that the move is essential for the mental or physical health of Resident, and it does not disqualify the family for the size unit it is currently occupying.

#### 5.2.12 Risk Assessment

MHA may refer at risk residents for an individualized risk assessment to identify and address resident needs in cases where tenancy would constitute a direct threat to the health or safety of the resident and/or other individuals or result in substantial physical damage to the property. The individualized risk assessment will rely on objective evidence (e.g., current record, or a recent history of facts).

By identifying issues and targeting resident needs and related risks to the resident, community, property, safety or security, MHA will reduce the propensity of criminal activity, violent or destructive behavior, housekeeping and living safety issues, potential fire hazard issues, unsafe living conditions, individual and communal disturbances, self-neglect, damage to living areas, crisis/emergency incidents, medical emergencies and/or public risk concerns.

This individualized risk assessment will focus on areas in which a housing property may be able to help residents better manage their needs and maintain their ability to live safely in their unit and community. As such, reasonable accommodations will be discussed with residents as an option, if applicable. By identifying critical issues through an individualized risk assessment, MHA can accommodate and support residency through a better targeted array of services designed to support residents' self-determination which ultimately:

- Enhance the ability of residents to uphold their lease obligations, taking proper care of the unit, and ensuring quiet enjoyment of the property for all residents and surrounding neighbors.
- Better work with residents with identified disabilities relating to the health and safety of themselves and within the community.
- Improve the quality of life within the community.
- Foster inclusion and tolerance by and for all residents and staff.

#### 5.2.13 Housing Authority Mistakes in Calculating Rent

If MHA makes a mistake in calculating a resident's rent contribution and overcharges the resident, the resident shall receive a refund for the amount of the mistake going back a maximum of 36 months. The refund shall be given to the resident as soon as practical or credited to the resident's account, whichever the resident desires unless the resident owes the Housing Authority money in which case the debt shall be offset to the degree possible before the resident chooses between the two refund methods.

#### 5.2.14 Misrepresentation by Resident

If the resident misrepresented facts to MHA resulting in rent that is less than the correct amount, the increase in rent shall be retroactive to the first of the month following the effective date of the change in income. In justifiable cases, MHA may take such action as it deems advisable in accordance with federal or Tennessee Law, including but not limited to termination of assistance and eviction.

Decreases in income resulting from welfare fraud or from welfare cuts for failure to comply with economic self-sufficiency requirements are not eligible for rent reductions (imputed welfare income).

MHA may refuse to process an interim recertification when the tenant reports a decrease in income only if the decrease was caused by a deliberate action of the tenant to avoid paying rent. For example, MHA receives documented evidence that a tenant quit a job in order to qualify for a lower rent.



## CHAPTER 6 – Lease and Lease Requirements

### 6.1 The Lease

A lease shall be entered into between MHA and each tenant of a dwelling unit which shall contain the provisions described hereinafter.

#### 6.1.1 Parties, Dwelling Unit, and Term

The lease shall state:

- The names of MHA and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the dwelling unit);
- The term of the lease (lease term and renewal in accordance with paragraph (a)(2) of section 24 CFR 966.4);
- A statement of what utilities, services, and equipment are to be supplied by MHA without additional cost, and what utilities and appliances are to be paid for by the tenant;
- The composition of the household as approved by MHA (family members and any MHA-approved live-in aide). The family must promptly inform MHA of the birth, adoption, or court-awarded custody of a child. The family must request MHA approval to add any other family member as an occupant of the unit;
- HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply.

#### Lease Term and Renewal

The lease shall have a twelve-month term. Except as provided in paragraph (a)(2)(ii) of section 24 CFR 966.4, the lease term must be automatically renewed for the same period.

(MHA may not renew the lease if the family has violated the requirement for resident performance of community service or participation in an economic self-sufficiency program in accordance with part 960, subpart F of this chapter. At any time, MHA may terminate the tenancy in accordance with § 966.4(l).

#### Execution and Modification

The lease must be executed by the tenant and MHA, except for automatic renewals of a lease. The lease may be modified at any time by written agreement of the tenant and MHA.

#### 6.1.2 Payments Due Under the Lease

##### Tenant Rent

The tenant shall pay the amount of the monthly tenant rent determined by MHA 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 shall specify the initial amount of the tenant rent at the beginning of the initial lease term. MHA shall give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective. Sporadic income is income that is not received regularly and cannot be reliably predicted.

##### MHA Charges

The lease shall provide for charges to the tenant for maintenance and repair beyond normal wear and tear and for consumption of excess utilities. The lease shall state the basis for the determination of such charges (e.g., by

a posted schedule of charges for repair, amounts charged for utility consumption in excess of the allowance stated in the lease, etc.). The imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances. A resident may request a grievance hearing under the grievance procedure.

### **Late Payment Penalties**

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

### **When Charges are Due.**

The lease shall provide those charges assessed under paragraph (b) (2) and (3) of section 24 CFR 966.4 shall not be due and collectible until two weeks after MHA gives written notice of the charges. Such notice constitutes a notice of adverse action and must meet the requirements governing a notice of adverse action (see § 966.4(e)(8)). If a resident requests a grievance for charges due, the charges will not become due until the grievance process has been completed.

### **Security Deposits**

At the option of MHA, the lease may provide for security deposits which shall not exceed one month's rent, or such reasonable fixed amount as may be required by MHA. Provision may be made for gradual accumulation of the security deposit by the tenant. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant on vacation of the dwelling unit or used for tenant services or activities.

MHA requires a security deposit from the applicant at the time of the initial lease execution. The security deposit will be the greater of:

- One month's total tenant payment, or
- \$100

When a family transfers from one property to another, their security deposit will transfer to the new unit. If the new unit requires a larger security deposit, the family must pay the difference.

Family must pay all outstanding charges, including any charges for damages to the current unit. If there are outstanding charges and the transfer is not mandated by MHA, the resident's security deposit cannot be transferred to the new unit. Once all deductions are made, the remaining deposit will be mailed to the resident. If the transfer is mandated by MHA, the security deposit will be transferred. Any balance remaining after the transfer shall be repaid to MHA in accordance with the following schedule:

- Damages less than \$250      30 days in one payment
- Damages \$250 - \$500      60 days in two payments
- Damages more than \$500      90 days in three payments

This payment period may be extended at the discretion of MHA on a case-by-case basis.

The security deposit may not be used to pay rent or other charges while Resident occupies the dwelling unit. No refund of the security deposit will be made until Resident has vacated, and MHA has inspected the dwelling unit.

At lease termination, the Landlord may choose to impose a claim on the security deposit for:

- Unpaid rent;
- The cost of repairing damage to the unit beyond normal wear and tear;
- Other charges due from the Resident to the Landlord

Upon vacating of the premises for termination of the Lease, if the Landlord does not intend to impose a claim

on the security deposit, the Landlord shall have thirty (30) days to return the security deposit so long as the Resident furnishes Landlord with a forwarding address. If any deductions are made, Landlord will furnish the Resident with a written statement of any such costs for damages and/or other charges deducted from the security deposit.

Notification: Failure by the Resident to give the required 30 days' notice of intent to vacate will relieve the Landlord of the 30 days' notice requirement but shall not waive any right the Resident may have to the security deposit or any part of it.

#### 6.1.3 Redetermination of Rent and Family Composition

The lease shall provide for redetermination of rent and family composition which shall include:

- The frequency of regular rental redetermination and the basis for interim redetermination.
- An agreement by the tenant to furnish such information and certifications regarding family composition and income as may be necessary for MHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.
- An agreement by the tenant to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by MHA that such a dwelling unit is available.

If a tenant transfers from one MHA unit to another, a new lease must be executed by the head of household and all adult family members for the new dwelling unit.

If at any time during the life of the lease agreement, a change in the tenant's status results in the need for changing or amending any provision of the lease either:

- A new lease agreement will be executed, or
- A Notice of Rent Change will be executed, or
- An appropriate rider will be prepared and made a part of the existing lease. All copies of such riders or insertions are to be dated and signed by the tenant and authorized representative of MHA.

When MHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of MHA's schedule of Utility Allowances for families in MHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, MHA shall notify the tenant that the tenant may ask for an explanation stating the specific grounds of MHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under MHA grievance procedure.

#### 6.1.4 Tenant's Right to Use and Occupancy

The lease shall provide that the tenant shall have 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. The term guest is defined in 24 CFR 5.100.

With the consent of MHA, members of the household may engage in legal profitmaking activities in the dwelling unit, where MHA determines that such activities are incidental to primary use of the leased unit for residence by members of the household.

With the consent of MHA, a foster child or a live-in aide may reside in the unit. MHA may adopt reasonable policies concerning residence by a foster child or a live-in-aide and defining the circumstances in which MHA consent will be given or denied. Under such policies, the factors considered by MHA may include:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- MHA's obligation to make reasonable accommodation for handicapped persons.
- Live-in aide means a person who resides with an elderly, disabled or handicapped person and who:
  - Is determined to be essential to the care and well-being of the person;
  - Is not obligated for the support of the person; and
  - Would not be living in the unit except to provide the necessary supportive services.

#### 6.1.5 MHA's Obligations

The lease shall set forth MHA's obligations under the lease, which shall include the following:

- To maintain the dwelling unit and the project in decent, safe, and sanitary condition;
- To comply with requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety;
- To make necessary repairs to the dwelling unit;
- To keep project buildings, facilities, and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition;
- To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by MHA;
- To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish, and other waste removed from the dwelling unit by the tenant in accordance with paragraph (f)(7) of section 24 CFR 966.4;
- To supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage), except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection; and
- To notify the tenant of the specific grounds for any proposed adverse action by MHA. Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.

When MHA is required to afford the tenant the opportunity for a hearing under MHA grievance procedure for a grievance concerning a proposed adverse action:

- The notice of proposed adverse action shall inform the tenant of the right to request such hearing. In the case of a lease termination, a notice of lease termination, in accordance with paragraph (l)(3) of section 24 CFR 966.4, shall constitute adequate notice of proposed adverse action.
- In the case of a proposed adverse action other than a proposed lease termination, MHA shall not take the proposed action until the time for the tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the tenant) the grievance process has been completed.

To consider lease bifurcation, as provided in 24 CFR 5.2009, in circumstances involving domestic violence, dating violence, sexual assault, or stalking addressed in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), provided that, if a MHA chooses to bifurcate a lease, no assistance will be given for an individual who does not meet public housing eligibility and 24 CFR 5.508(h)(2) applies to submission of evidence of citizenship or eligible immigration status.

#### 6.1.6 Tenant's Obligations

The lease shall provide that the tenant shall be obligated:

- Not to assign the lease or to sublease the dwelling unit;
- 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 notify MHA if the tenant will be absent from the unit more than 14 consecutive days;
- To abide by necessary and reasonable regulations promulgated by MHA 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 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;
- To assure that no tenant, member of the tenant's household, or guest engages in:
  - Criminal activity. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; Any drug-related criminal activity on or off the premises; or
  - Civil activity. For any units covered by 24 CFR part 965, subpart G, any smoking of prohibited tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that MHA has designated as smoke-free.
- To assure that no other person under the tenant's control engages in:
  - Criminal activity. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; Any drug-related criminal activity on the premises; or
  - Civil activity. For any units covered by 24 CFR part 965, subpart G, any smoking of prohibited tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that MHA has designated as smoke-free.
- To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.

If during the terms of this Lease, a resident, because of physical or mental impairment is no longer able to comply with the material provisions of this Lease and cannot make arrangements for someone to aid him/her in complying with the Lease, and the Landlord cannot make any reasonable accommodation that would enable the Resident to comply with the Lease then the Landlord will assist the Resident or designated member(s) of the resident's family to find more suitable housing and move the Resident from the dwelling unit. If there are no family members who can or will take responsibility for moving the Resident, Landlord will work with appropriate agencies to secure suitable housing and will terminate the lease. At the time of admission, all Residents must identify an emergency contact.

#### 6.1.7 Tenant Maintenance

The lease may provide that the tenant shall perform seasonal maintenance or other maintenance tasks, as specified in the lease, where performance of such tasks by tenants of dwellings units of a similar design and construction is customary: Provided, that such provision is included in the lease in good faith and not for the purpose of evading the obligations of MHA. MHA shall exempt tenants who are unable to perform such tasks because of age or disability.

#### 6.1.8 Defects Hazardous to Life, Health, or Safety

The lease shall set forth the rights and obligations of the tenant and MHA if the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and shall provide that:

- The tenant shall immediately notify project management of the damage;
- MHA shall be responsible for repair of the unit within a reasonable time: Provided, That if the damage was caused by the tenant, tenant's household or guests, the reasonable cost of the repairs shall be charged to the tenant;
- MHA shall offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time; and
- Provisions shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with paragraph (h)(2) of section 24 CFR 966.4 or alternative accommodations not provided in accordance with paragraph (h)(3) of section 24 CFR 966.4, except that no abatement of rent shall occur if the tenant rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household or guests.

#### 6.1.9 Pre-Occupancy and Pre-Termination Inspections

The lease shall provide that MHA and the tenant or representative shall be obligated to inspect the dwelling unit prior to commencement of occupancy by the tenant. MHA will furnish the tenant with a written statement of the condition of the dwelling unit, and the equipment provided with the unit. The statement shall be signed by MHA and the tenant, and a copy of the statement shall be retained by MHA in the tenant's folder. MHA shall be further obligated to inspect the unit at the time the tenant vacates the unit and to furnish the tenant a statement of any charges to be made in accordance with paragraph (b)(2) of section 24 CFR 966.4. Provision shall be made for the tenant's participation in the latter inspection, unless the tenant vacates without notice to MHA.

#### 6.1.10 Entry of Dwelling Unit During Tenancy

The lease shall set forth the circumstances under which MHA may enter the dwelling unit during the tenant's possession thereof, which shall include provision that:

- MHA shall, upon reasonable advance notification to the tenant, be permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections and maintenance, for making improvement or repairs, or to show the dwelling unit for re-leasing. A written statement specifying the purpose of MHA entry delivered to the dwelling unit at least two days before such entry shall be considered reasonable advance notification;
- MHA may enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists; and
- If the tenant and all adult members of the household are absent from the dwelling unit at the time of entry, MHA shall leave in the dwelling unit a written statement specifying the date, time, and purpose of entry prior to leaving the dwelling unit.

#### 6.1.11 Notice Procedures

The lease shall provide procedures to be followed by MHA and the tenant in giving notice one to the other which shall require that:

- Except as provided in paragraph (j) of section 24 CFR 966.4, notice to a tenant shall be in writing and delivered to the tenant or to an adult member of the tenant's household residing in the dwelling or sent by prepaid first-class mail properly addressed to the tenant; and
- Notice to MHA shall be in writing, delivered to the project office or MHA central office or sent by prepaid first-class mail properly addressed.
- If the tenant is visually impaired, all notices must be in an accessible format.

#### 6.1.12 Termination of Tenancy and Eviction

##### **Procedures**

The lease shall state the procedures to be followed by MHA and by the tenant to terminate the tenancy. MHA may terminate the tenancy only for:

- Serious or repeated violation of material terms of the lease, such as the following:
  - Failure to make payments due under the lease;
  - Failure to fulfill household obligations, as described in paragraph (f) of section 24 CFR 966.4;
- Being over the income limit for the program, as provided in 24 CFR 960.261.
- Other good cause. Other good cause includes, but is not limited to, the following:
  - Criminal activity or alcohol abuse as provided in paragraph (1)(5) of section 24 CFR 966.4;
  - Discovery after admission of facts that made the tenant ineligible;
  - Discovery of materially false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;
  - Failure to recertify annually in accordance with 24 CFR 960.257;
  - Failure of a family member to comply with service requirement provisions of part 960, subpart F, of this chapter - as grounds only for non-renewal of the lease and termination of tenancy at the end of the twelve-month lease term; and
  - Failure to accept MHA's offer of a lease revision to an existing lease: that is on a form adopted by MHA in accordance with § 966.3; with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.



## **Lease Termination Notice**

MHA must give written notice of lease termination of:

- days in the case of failure to pay rent;
- Three (3) days, considering the seriousness of the situation:
  - If the health or safety of other residents, MHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or
  - If any member of the household has been convicted of a felony;
- 30 days in any other case, except that if a State or local law allows a shorter notice period, such shorter period shall apply.

The notice of lease termination to the tenant shall state specific grounds for termination and shall inform the tenant of the tenant's right to make such reply as the tenant may wish. The notice shall also inform the tenant of the right (pursuant to § 966.4(m)) to examine MHA documents directly relevant to the termination or eviction. When MHA is required to afford the tenant the opportunity for a grievance hearing, the notice shall also inform the tenant of the tenant's right to request a hearing in accordance with MHA's grievance procedure.

A notice to vacate which is required by State or local law may be combined with, or run concurrently with, a notice of lease termination under paragraph (l)(3)(i) of section 24 CFR 966.4.

When MHA is required to afford the tenant the opportunity for a hearing under MHA grievance procedure for a grievance concerning the lease termination (see § 966.51(a)(1)), the tenancy shall not terminate (even if any notice to vacate under State or local law has expired) until the time for the tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the tenant) the grievance process has been completed.

When MHA is not required to afford the tenant the opportunity for a hearing under MHA administrative grievance procedure for a grievance concerning the lease termination (see § 966.51(a)(2)), and MHA has decided to exclude such grievance from MHA grievance procedure, the notice of lease termination under paragraph (l)(3)(i) of section 24 CFR 966.4 shall:

- State that the tenant is not entitled to a grievance hearing on the termination.
- Specify the judicial eviction procedure to be used by MHA for eviction of the tenant, and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations.
- State whether the eviction is for a criminal activity as described in §966.51(a)(2)(i)(A) or for a drug-related criminal activity as described in §966.51(a)(2)(i)(B).

## **How tenant is evicted**

MHA may evict the tenant from the unit either:

- By bringing a court action or;
- By bringing an administrative action if law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties. In order to evict without bringing a court action, MHA must afford the tenant the opportunity for a pre-eviction hearing in accordance with MHA grievance procedure.

## **MHA Termination of Tenancy for Criminal Activity or Alcohol Abuse**

### **Evicting Drug Criminals**

**Methamphetamine conviction:** MHA must immediately terminate the tenancy if MHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

**Drug crime on or off the premises:** The lease must provide that 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, is grounds for MHA to terminate tenancy. In addition, the lease must provide that an MHA may evict a family when MHA determines that a household member is illegally using a drug or when MHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **Evicting Other Criminals**

**Threat to other residents:** The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including MHA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

**Fugitive Felon or Parole Violator:** MHA may terminate the tenancy 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.

### **Eviction for Criminal Activity**

**Evidence:** MHA may evict the tenant by judicial action for criminal activity in accordance with this section if MHA determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

**Notice to Post Office:** When MHA evicts an individual or family for criminal activity, MHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

**Use of criminal record:** If MHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, MHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before an MHA grievance hearing or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial.

**Cost of obtaining criminal record:** MHA may not pass along to the tenant the costs of a criminal records check.

### **Evicting Alcohol Abusers**

MHA must establish standards that allow termination of tenancy if MHA determines that a household member has:

- Engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

## **MHA Action**

**Assessment under PHAS:** Under the Public Housing Assessment System (PHAS), MHAs that have adopted policies, implemented procedures, and can document that they appropriately evict any public housing residents who engage in certain activity detrimental to the public housing community receive points. (See 24 CFR 902.43(a)(5).) This policy takes into account the importance of eviction of such residents to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

**Consideration of circumstances:** In a manner consistent with such policies, procedures and practices, MHA may consider all circumstances relevant to a particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

**Exclusion of culpable household member:** MHA may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

**Consideration of rehabilitation:** In determining whether to terminate tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, MHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13662). For this purpose, MHA may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

**Length of period of mandatory prohibition on admission:** If a statute requires that MHA prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, MHA may apply that prohibition for a longer period of time.

**Nondiscrimination limitation:** MHA's eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

## **Right to Examine MHA Documents Before Hearing or Trial**

MHA shall provide the tenant a reasonable opportunity to examine, at the tenant's request, before an MHA grievance hearing or court trial concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of MHA, and which are directly relevant to the termination of tenancy or eviction. The tenant shall be allowed to copy any such document at the tenant's expense. A notice of lease termination pursuant to §966.4(l) (3) shall inform the tenant of the tenant's right to examine MHA documents concerning the termination of tenancy or eviction. If MHA does not make documents available for examination upon request by the tenant (in accordance with this § 966.4(m)), MHA may not proceed with the eviction.

### **6.1.13 Grievance Procedures**

The lease must provide that all disputes concerning the obligations of the tenant or MHA must (except as provided in § 966.51(a)(2)) be resolved in accordance with MHA grievance procedures. The grievance procedures must comply with subpart B of this part. The lease must include a description of MHA's policies for selecting a hearing officer.

**Provision for modifications**

The lease shall provide that modification of the lease must be accomplished by a written rider to the lease executed by both parties, except for paragraph (c) of section 24 CFR 966.4 and § 966.5.

**Signature clause**

The lease shall provide a signature clause attesting that the lease has been executed by the parties.

**6.2 Inspections**

An authorized representative of MHA and an adult family member will inspect the premises prior to commencement of occupancy. A written statement of the condition of the premises will be made, all equipment will be provided, and the statement will be signed by both parties with a copy retained in MHA's file and a copy given to the family member. An authorized MHA representative will inspect the premises at the time the resident vacates and will furnish a statement of any charges to be made provided the resident turns in the proper notice under State law. The resident's security deposit can be used to offset against any MHA damages to the unit.

**6.2.1 Move-In Inspections**

MHA and an adult member of the family will inspect the unit prior to signing the lease. Both parties will sign a written statement of the condition of the unit. A copy of the signed inspection will be given to the family and the original will be placed in the tenant file.

**6.2.2 Annual Inspections**

MHA will inspect each public housing unit annually to ensure that each unit meets MHA's housing standards as established either by the UPCS Inspection standards or the NSPIRE standards whichever is in effect at the time. Work orders will be submitted and completed to correct any deficiencies.

**6.2.3 Preventative Maintenance Inspections**

This is generally conducted along with the annual inspection. This inspection is intended to keep items in good repair. It checks weatherization; checks the condition of the smoke detectors, water heaters, furnaces, automatic thermostats, and water temperatures; checks for leaks; and provides an opportunity to change furnace filters and provide other minor servicing that extends the life of the unit and its equipment.

**6.2.4 Special Inspections**

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by MHA in accordance with the most recent inspection standards being required by HUD at the time.

**6.2.5 Housekeeping Inspections**

Generally, at the time of annual reexamination, or at other times as necessary, MHA will conduct a housekeeping inspection to ensure the family is maintaining the unit in a safe and sanitary condition.

**6.2.6 Notice of Inspections**

For inspections defined as annual inspections, preventative maintenance inspections, special inspections, and housekeeping inspections, MHA will give the tenant at least two (2) calendar days written notice.

### 6.2.7 Emergency Inspections

If any employee and/or agent of MHA has reason to believe that an emergency exists within the housing unit, the unit can be entered without notice. The person(s) that enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

### 6.2.8 Pre-Move-Out Inspections

When a tenant gives notice that they intend to move, MHA will offer to schedule a pre-move-out inspection with the family. The inspection allows MHA to help the family identify any problems which, if left uncorrected, could lead to vacate charges. This inspection is a courtesy to the family and has been found to be helpful both in reducing costs to the family and in enabling MHA to ready units more quickly for the future occupants.

### 6.2.9 Move-Out Inspections

MHA conducts the move-out inspection after the tenant vacates to assess the condition of the unit and determine responsibility for any needed repairs. When possible, the tenant is notified of the inspection and is encouraged to be present. This inspection becomes the basis for any claims that may be assessed against the security deposit.

### 6.2.10 Minimum Heating Standard

MHA shall comply with the heating standards established by Shelby County and the City of Memphis. MHA shall use the following minimum heating requirements for public housing dwelling units in order to comply with Section 111 of HOTMA.

#### **Minimum Temperature**

In properties where the heat is PHA-controlled, the minimum in each unit must be at least 68 degrees Fahrenheit.

In properties where the heat is tenant-controlled, then the heating equipment must have the capability of heating to at least 70 degrees Fahrenheit.

#### **Minimum Temperature Capability**

PHAs are allowed flexibility in maintenance of the indoor temperature when the outdoor temperature approaches the design day temperature.[1] At no point should indoor temperatures in occupied space drop below 55 degrees Fahrenheit. This flexibility applies when at least one of the below criteria are met:

- The outside temperature reaches or drops below the design day temperature, or
- The outside temperature is within five degrees Fahrenheit of the design day temperature for more than two continuous days.

#### **Measurement**

Temperature measurements must be taken three feet above the floor and two feet from an exterior wall in a habitable room.

## 6.3 No Smoking

As required by HUD, MHA has adopted the policy to forbid smoking in all of its structures and within 25 feet of an MHA owned structure. It does not prohibit smoking by public housing residents. It just states where they cannot smoke. This policy was developed to:

- Protect tenants from the medical hazards of second hand smoke;

- Protect lives and property from fires due to smoking accidents; and
- Reduce turnover costs associated with smoke damage in our residential units.

### 6.3.1 Definitions

**Prohibited tobacco products:** Items that involve the ignition and burning of tobacco leaves, such as (but not limited to) store bought or hand-rolled cigarettes, marijuana, cigars, and pipes. This includes water pipes and/or hookahs.

**Restricted areas:** Smoking is not allowed in any public housing living units and other interior areas. Interior areas include, but are not limited to, hallways, rental, and administrative offices, maintenance facilities, community centers, day care facilities, laundry facilities, and similar structures. Smoking is also prohibited within 25 feet of public housing and other MHA owned structures. This does not cover mixed-finance buildings.

**Designated smoking areas:** Smoking will be limited to areas outside a restricted area and designated for smoking by MHA. The area will be identified by a site plan attached to leases and/or signage erected on the site. The designated smoking area will be accessible for persons with disabilities.

**Covered individuals:** This policy covers not only everyone living on the property, but also all guests and visitors. Each resident is responsible for his or her guests or visitors. Violations of this policy by an aide, guest or visitor will be considered to have been made by the resident(s) head of household.

### 6.3.2 Reasonable Accommodation Requests

An addiction to nicotine or smoking is not a disability. That stated, a person with a disability may request a reasonable accommodation if they are a smoker. Reasonable accommodations will be made, where warranted, as quickly as possible.

### 6.3.3 Enforcement and Monitoring

MHA will enforce smoke-free policies when a resident is violating the policy. When enforcing the lease, MHA must provide due process and allow residents to exercise right to an informal settlement process and a formal hearing, pursuant 24 CFR § 966 Subpart B. MHA may not evict for a single incident of smoking, in violation of a smoke-free policy.

All Tenants shall sign a smoking policy addendum to comply with the smoking prohibitions and agree to smoke only in the outdoor designated area. MHA will work with resident councils, provide residents with information on cessation assistance, post notices, and distribute information to residents about the smoke-free policy.

MHA will use a graduated enforcement approach that includes, verbal warnings, written warnings, counseling programs, referrals, probation, and fines prior to pursuing tenant eviction for violated the smoke-free policy. After exhausting all the graduated enforcement approaches if the resident and its household members and invited guest repeatedly to violate this policy a lease termination will be issued.

#### 6.3.4 Penalties for Violating This Policy

If a resident, aide, visitor, or guest violates this policy the following penalties shall be enforced:

- First Offense                      Oral Warning
- Second Offense                  Written Warning
- Third Offense                    \$50 fine
- Fourth Offense                  \$100 fine
- Fifth Offense                    Eviction

If the violator is an aide, visitor, or guest; the graduated penalty steps will start over with each annual lease renewal. There is no start over for a resident. All penalties assessed against a resident will be documented in the resident's file.

DISCLAIMER: MHA's adoption of this policy does not change the standard of care it has for the living units or common areas. MHA specifically disclaims any implied or express warranties concerning the air quality in either the living units or common area. There is no warranty or promise that the air will be smoke free. Prohibited tobacco products. Items that involve the ignition and burning of tobacco leaves, such as (but not limited to) store bought or hand-rolled cigarettes, marijuana, cigars, and pipes. This includes water pipes and/or hookahs.

## 6.4 Terminations

#### 6.4.1 Termination by Tenant

The tenant may terminate the lease at any time upon submitting a 30-day written notice. If the tenant vacates prior to the end of the thirty (30) calendar days, they will be responsible for rent through the end of the notice.

#### 6.4.2 Termination by Housing Authority

Twelve months after MHA has implemented the mandated Community Service Requirement, it will not renew the lease of any non-exempt family that is not in compliance with the Community Service Requirement or approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

MHA will terminate the lease for serious or repeated violations of material lease terms. Such violations include, but are not limited to, the following:

- Nonpayment of rent or other charges. MHA shall provide for additional time for non-Payment of rent due when, during emergencies such the current COVID-19 pandemic, if Federal funding is available to assist tenants with nonpayment of rent and tenants facing eviction for nonpayment of rent in public housing and the HUD Secretary so requires. If the HUD Secretary determines that tenants must be provided with adequate notice to secure Federal funding that is available due to a Presidential declaration of a national emergency:
  - The notice of lease termination required in § 966.4(l)(3) for failure to pay rent must provide such information as required by the Secretary; and
  - Notwithstanding § 966.4(l)(3)(i)(A), the notice of lease termination for failure to pay rent must provide for at least 30 days from the date the tenant receives the notice.
  - Upon the Secretary's determination in paragraph (a) of this section, the PHA will provide notice to all tenants of the requirements in paragraph (a) taking effect.
- A history of late rental payments;
- Failure to recertify annually in accordance with 24 CFR 960.257
- Failure to provide timely and accurate information regarding family composition, income circumstances, or other information related to eligibility or rent;



- Failure to allow inspection of the unit;
- Failure to maintain the unit in a safe and sanitary manner;
- Assignment or subletting of the premises;
- Use of the premises for purposes other than as a dwelling unit (other than for housing authority approved resident businesses);
- Destruction of property;
- Acts of destruction, defacement, or removal of any part of the premises or failure to cause guests to refrain from such acts;
- Any violent or drug-related criminal activity on or off the premises, not just on or near the premises. This includes 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. This includes but is not limited to the manufacture of methamphetamine on the premises of MHA or on the premises of any other federally assisted housing;
- Non-compliance with Non-Citizen Rule requirements;
- Permitting persons not on the lease to reside in the unit more than fourteen (14) calendar days each year without the prior written approval of the Housing Authority;
- Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the Authority by the resident, household members, or guests of the resident or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy;
- Alcohol abuse that MHA determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Failure to perform required community service or be exempted therefrom;
- MHA will take immediate action to evict any household that includes an individual who is subject to a lifetime registration requirement under a state sex offender registration program;
- Determination that a household member is illegally using a drug or when MHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. HUD has determined that Medical Marijuana is still a classified drug under the Federal Standards and is NOT allowed in Public Housing.
- Criminal activity as shown by a criminal record. If an individual or family's lease is terminated for criminal activity, MHA will notify the local post office serving the development that the individual or family no longer lives there.
- Disconnecting a smoke detector in any manner, removing any batteries from a Smoke Detector, Carbon Monoxide Detector, or failing to notify the Housing Authority if any detector is inoperable for any reason; and
- Other good cause.

#### 6.4.3 Termination of Tenancy for Criminal Activity or Alcohol Abuse, 24 CFR 966.4(5)(vii)

In deciding to terminate a tenancy for criminal activity or alcohol abuse, MHA will consider circumstances relevant to the particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

In deciding to terminate a tenancy for criminal activity or alcohol abuse, MHA will require a leaseholder to

exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for an action or failure to act that warrants the termination.

In deciding to terminate a tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, MHA may consider whether such household member:

- Is participating in a supervised drug or alcohol rehabilitation program;
- Has successfully completed a supervised drug or alcohol rehabilitation program; or
- Has otherwise been successfully rehabilitated.

For this purpose, MHA may require the leaseholder to submit evidence of one of the above 3 statements. In deciding whether to exercise their discretion to terminate an individual or household that has engaged in criminal activity, MHA will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity.

An arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse termination, or eviction decision. Before MHA evicts an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity but is not itself evidence on which to base a determination. MHA can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

If MHA proposes to terminate assistance on the basis of a criminal record, MHA will notify the household of the proposed action to be based on the information and will provide the subject of the record and the tenant with a copy of the criminal record before the grievance hearing or court trial concerning the termination of tenancy or eviction. The tenant will be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial. The family will have ten (10) business days to dispute the accuracy and relevance of the record in writing. If the Housing Authority does not receive the dispute within the allotted time, the family will be terminated.

#### 6.4.4 Notice Requirements

When MHA proposes to terminate a lease, the termination shall follow all applicable Federal and State laws. The notice of termination to the resident shall state the reasons for termination, inform the resident of their right to make reply, settlement, and/or request a grievance hearing in accordance with the Grievance and Appeal Policy.

- MHA shall give a 3-day written notice of termination for serious violations of the Lease. 3-day notices of termination are not eligible for the grievance policy;
- MHA shall give the applicable written notice of termination (14-Day Notice of Termination for Non-payment of Rent) for a resident's failure to pay rent. Such notice shall not be sent until the rent becomes delinquent in accordance with the Lease; and

- MHA shall give a 30-day written notice of termination in any other case or cause.

In accordance with MHA's record retention policy, a copy of each termination and/or eviction shall be maintained in the residents file for 3 years after termination.

#### 6.4.5 Eviction

MHA may only evict the resident from the unit by instituting a court action and obtaining a court order awarding possession to MHA. MHA will notify the resident in writing of the actual eviction date.

#### 6.4.6 Mitigating Circumstances

General failure to comply with lease terms or other program policies may lead to termination or denial of assistance. Before MHA decides to send a notice terminating assistance, MHA shall consider all circumstances relevant to a case. This may include but not limited to the following:

- The seriousness of the offending action;
- The extent of participation by the lease holder in the offending actions;
- The effects that the eviction would have on the family members not involved in the offending activity;
- The extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

The ACOP indicates that MHA Public Housing residents or family members and program participants shall comply with all lease terms including but not limited to:

- Any violent criminal activity,
- Any drug-related criminal activity, or
- Other activities in violation of the lease.

MHA staff may become aware that an applicant's ineligibility determination, or a resident's or program participant's termination of assistance determination, occurred because of their disability. This knowledge may be acquired during an informal review for applicants or during an informal hearing for residents or program participants. This section addresses this issue.

If an applicant, resident, or program participant has a history of behavior or displays behavior that may result in a violation of the MHA Lease or in violation of program regulations or policies, the Site Manager or other designated employee may make an initial determination that the applicant is ineligible or that the resident or program participant should be terminated.

The notices of ineligibility (for applicants) or termination of assistance (for residents and program participants) inform applicants of their right to request an informal review or residents and program participants of their right to an informal hearing. During the informal review or hearing, if the applicant, resident, or program participant informs the Hearing Officer that a requested reasonable accommodation may enable the applicant to become lease compliant, the Hearing Officer will forward the reasonable accommodation request to the Director of Asset Management and continue the informal review.

#### 6.4.7 VAWA Protections

Under the Violence Against Women Act (VAWA, notwithstanding the title of the statute, protections are not limited to women but cover victims regardless of sex, gender identity, or sexual orientation). Public housing

residents have the following specific protections, which will be observed by MHA.

An applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a direct result of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

MHA shall provide each applicant and resident a HUD prescribed Notice of Occupancy Rights and Certification form. This notice shall also be provided with any notice of eviction. In addition, the Authority shall make an adopted Emergency Transfer Plan and Emergency Transfer Request available upon request.

MHA shall keep a record of all emergency transfer requests requested under the Emergency Transfer Plan and the outcome of these requests for three years.

The Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, dating violence, sexual assault, or stalking to family members or affiliated individuals without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member or affiliated individual is not a signatory to the lease. Under VAWA, MHA is granted the authority to bifurcate the lease. The VAWA victim must be the one who retains the assistance. The Housing Authority will honor court orders regarding the rights of access or control of the property.

There is no limitation on the ability of the Housing Authority to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the Housing Authority evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

MHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Types of acceptable verifications are outlined below and must be submitted within 14 business days after receipt of the Housing Authority’s written request for verification.

#### 6.4.8 Verification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

MHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. The request for verification shall take the form of a written request by MHA to the claimant.

##### **Requirement for Verification**

The law allows, but does not require, MHA to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. The Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may be accomplished in one of the following three ways:

- HUD-approved form - By providing to the Housing Authority a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator, only if the name of the perpetrator is safe to provide and is known to the victim.
- Other documentation - by providing to the Housing Authority documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
- Police or court record – by providing to the Housing Authority a Federal, State, tribal, territorial, or local law enforcement or court record describing the incident or incidents in question.

##### **Time Allowed to Provide Verification/Failure to Provide**

An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, and who is requested by the Housing Authority to provide verification, must provide such verification within 14 business days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. The submission of false information may be the basis for the termination of assistance or for eviction.

##### **Managing Conflicting Documentation**

In cases where MHA 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, MHA may determine which is the true victim by requiring third-party documentation as described

in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. MHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

#### 6.4.9 Confidentiality

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in confidence, and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- Requested or consented to by the individual in writing;
- Required for used in an eviction proceeding; or
- Otherwise required by applicable law.

MHA shall provide its tenants notice of their rights under VAWA including their right to confidentiality and the limits thereof.

#### 6.4.10 Terminations for Criminal Activity

The term “due process determination” means a determination by HUD that law covering MHA’s jurisdiction requires that residents must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.

HUD has issued a due process determination that the law of this State requires that residents be given the opportunity for a hearing in a court that provides the basic elements of due process before eviction from a dwelling unit. MHA has therefore determined that this Grievance Procedure shall not be applicable to any termination of tenancy or eviction for:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of MHA’s public housing premises by other residents or employees of the Housing Authority;
- Any violent or drug-related criminal activity on or off such premises; or
- Any activity resulting in a felony conviction.

#### 6.4.11 Abandonment

MHA will consider a unit to be abandoned when a resident has both fallen behind in rent AND has clearly indicated by words or actions an intention not to continue living in the unit.

When a unit has been abandoned, MHA will send notice of abandonment to the last address on file. MHA does not have a new address for the resident, the notice will be mailed to the unit address so it can be forwarded by the post office. Thirty (30) calendar days after MHA mails the notice of abandonment, an MHA representative may enter the unit and remove any abandoned property.

Within 30 calendar days of learning of an abandonment, MHA will provide a statement of why the deposit is being kept.

#### 6.4.12 Return of Security Deposit

After a family moves out, MHA will return the security deposit within 30 calendar days or give the family a written statement of why all or part of the security deposit is being kept. The rental unit must be restored to the same conditions as when the family moved in, except for normal wear and tear. Deposits will not be used to

cover normal wear and tear or damage that existed when the family moved in.

If State law requires the payment of interest on security deposits, it shall be complied with.

MHA will be considered in compliance with the above if the required payment, statement, or both, are deposited in the U.S. mail with first class postage paid within 30 calendar days.

#### 6.4.13 The EIV Deceased Tenant Report

MHA shall generate the EIV's Deceased Tenants Report monthly shortly before either the end of the month or creating rent statements to see if the system flags deceased residents. MHA shall review the report and follow up with any listed families immediately and take any necessary corrective action as set forth in PIH Notice 2010-50 or successor publications.

If it is a single member household, the Housing Authority shall immediately visit the unit and determine if it is vacant or occupied by an unauthorized person. If improperly occupied, the Housing Authority shall take immediate eviction actions under state law. If the property is occupied by a live-in-aide to the deceased person, the aide must move out immediately and is not eligible for continued occupancy or rental assistance.

#### 6.4.14 Collections

If a resident's account is placed with a Collection Agency, a collection-fee of up to 33.3% may be added to their account and shall become a part of the Total Amount Due. The resident will be responsible for all reasonable collection fees including collection fees, reasonable attorney fees and court cost.

Resident agrees, that for MHA to service their account or to collect any amounts they may owe, MHA and its collection agencies may contact them by telephone at any telephone number associated with their account, including wireless telephone numbers, which could result in charges to the resident. MHA and its collection agencies may also contact the resident by sending text messages or emails, using email addresses provided to use.

Methods of contact may include using pre-recorded/artificial voice messages and/or use of an automatic dialing device, as applicable.

## 6.5 Bed Bug Policy

### 6.5.1 What Are Bed Bugs

Bed bugs are small nocturnal insects that live by feeding on the blood of humans and other warm-blooded hosts. Bedbugs are generally active only at dawn, with a peak feeding period about an hour before sunrise. After feeding for about five minutes, the bug returns to its hiding place.

Bites consist of a raised red bump or flat welt and are often accompanied by intense itching. The red bump or welts are the result of an allergic reaction to the anesthetic contained in the bedbug's saliva, which is inserted into the blood of the host. Bed bug bites may appear indistinguishable from mosquito bites, though they tend to last for longer periods. Bites may not become immediately visible and can take up to 9 days to appear. Bed bug bites tend not to have a red dot in the center which is a characteristic of flea bites. A trait shared with flea bites, however, is the tendency towards arrangements of sequential bites. Bites are often aligned three in a row, giving rise to the colloquialism "breakfast, lunch and dinner." There have been no known cases of bed bugs passing



disease from host to host. Extensive testing has been done in laboratory settings that also conclude that bed bugs are unlikely to pass disease from one person to another. Therefore, bedbugs are less dangerous than some more common insects such as the flea.

#### 6.5.2 How Did I Get Bed Bugs

Bedbugs were originally brought to the United States by early colonists from Europe. Bedbugs thrive in places with high occupancy, such as hotels. Bedbugs were believed to be altogether eradicated 50 years ago in the United States and elsewhere with the widespread use of DDT. One recent theory about bedbug reappearance involves potential geographic epicenters in some states. It was determined that workers in these facilities were the main spreaders of these bedbugs, unknowingly carrying them to their places of residence and elsewhere after leaving work.

Many years ago, bed bugs were eradicated using a pesticide, DDT. This is no longer used and may account for the resurgence of these bugs in the US as might the increase in international travel.

Anyone can pick bed bugs up from a location where they presently exist – someone's apartment, hotels, motels, movie theatres, etc. Bed bugs are equal opportunity pests – they will infest anyone, anywhere.

#### 6.5.3 What Should I Do if I Believe I Have Bed Bugs

Notify the Property Manager – As-soon-as-possible. Be prepared to follow the written instructions to the letter and in a timely manner (within 24 hours).

#### 6.5.4 What Shouldn't I Do if I Have Bed Bugs

Do not panic! Although bed bugs can be annoying, they can be battled safely and successfully if you follow all guidelines given to you by the Housing Authority and Pest Control Company. If you believe you have bed bugs, do NOT wait until after 5pm on Friday to notify someone. It is not possible to get service from the exterminator after hours.

Do not apply pesticides on your own. The Housing Authority will hire a licensed pest control operator to confirm the infestation and to develop an integrated pest management plan.

Do not place your mattress or any furniture on the street. Infested furniture can be cleaned and treated. Placing infested furniture (particularly mattresses) on the street may simply help spread bed bugs to other units.

Do not allow others to come to your house and do not visit others before the bedbugs are eradicating. Doing so could result in further spreading.

#### 6.5.5 Bed Bug Policy

MHA is committed to an effective and efficient response to residents who suspect they may have bed bugs. For the safety and comfort of all residents living in MHA units, our staff will adhere to the following guidelines:

As soon as a resident suspects that they may have bed bugs, they should contact the Property Manager at their development office. If another MHA Staff Member learns of a potential bed bug problem, their first call should be to the Property Manager.

The Property Manager will notify the pest control company as soon as possible so the exterminator can be

dispatched to the location to perform a thorough inspection of the unit in question. Please note that should a resident notify the Property Manager on a weekend or holiday; the pest control company will be contacted on the next workday. It is recommended that resident contact the Property Manager as early on a regular business day as possible. The exterminator cannot be dispatched on weekends or holidays.

Once notice is received, by the Property Manager, residents may not, at any time, deny the exterminator or Housing Authority Staff access to the unit.

#### 6.5.6 Exterminator Findings

If the exterminator finds that there are no bedbugs present in the unit, then no further action will be taken. The resident will be asked to continue monitoring the unit, and to notify the Housing Authority immediately if there are further problems.

If the exterminator concludes that bed bugs are present in the unit, MHA will provide the affected resident(s) with a detailed list of instructions for the removal and laundering of their personal items. MHA is not responsible for washing/drying/dry cleaning.

Only the exterminator can confirm or deny the presence of bed bugs – NOT any outside person.

Bed bugs are a serious community issue, and ALL residents are expected to comply with all instructions given to them within 24 hours once bed bugs have been confirmed within their living space.

Insecticides alone will not control bedbug infestations. Your cooperation and following the directions on the “Bedbug Preparation Checklist” is required for the treatment to work. Please remember, you MUST NOT hinder the treatment of the unit. Your cooperation is essential. If you do not cooperate and/or do not complete the checklist we will be forced to issue a Demand for Possession and your lease may be terminated.

## CHAPTER 7 – Grievance Procedures

Establishment of Informal Hearing with Memphis Housing Authority

### 7.1 Grievance Procedures

#### 7.1.1 Reasons for Informal Hearing with Management

An informal hearing shall be established to afford a tenant or applicant an opportunity for a fair hearing if they dispute within a reasonable time any MHA action or failure to act by the lease requirements or any Property Management action or failure to act involving interpretation or application of MHA's regulations, policies or procedures which adversely affect the tenant's or applicant's rights, duties, welfare, or status.

#### 7.1.2 Informal Hearing Officer

The informal hearing shall consist of one (1) person from Memphis Housing Authority Management. This member of management cannot be one whose duties and responsibilities involve them in any way with the grievance at issue.

#### 7.1.3 Establishment of Grievance Panel Hearing

##### **Reasons for Grievance Panel Hearing**

An impartial grievance panel hearing shall be established to afford a tenant or applicant an opportunity for a fair hearing if they dispute, within a reasonable time, any MHA action or failure to act in accordance with the lease requirements, or any MHA action or failure to act involving interpretation or application of MHA's regulations, policies, or procedures that adversely affect the tenant's or applicant's rights, duties, welfare, or status.

##### **Who Are the Members of the Grievance Panel Hearing**

MHA shall appoint a volunteer pool of impartial persons to sit as Hearing Officer(s) to hear resident grievances. MHA will solicit its volunteer pool of candidates from, but not limited to, local colleges, universities, organizations, agencies, private firms, civic groups, corporations, and the MHA resident advisory board members.

##### **Restriction on Who May be a Chairperson**

The impartial or disinterested member of the Hearing Panel shall be the CHAIRPERSON of the hearing or hearings. The disinterested or unbiased member of the Panel may not be an officer or an employee of MHA or any of its projects, a tenant of the Property Management, or an employee of MHA.

##### **Restriction on Other Hearing Panel Members**

There shall be no relatives of the complainant on the Panel which hears their complaint; nor shall any Property Management officer or employee whose duties and responsibilities involve them in any way with the grievance at issue, sit as a member of the Hearing Panel for that meeting.

#### 7.1.4 Proceedings Before a Grievance Panel Hearing

##### **Tenant Grievances**

A tenant grievance or complaint must be personally presented in writing and signed by the complainant to the Property Management office of the project in which the complainant resides so that the grievance may be formally discussed and resolved without a hearing. Said grievance or complaint must be filed within ten (10)

days of the Property Management action or failure to act, which is the basis for the grievance and must specify:

- the grounds upon which it is based and
- the action requested.

### **Complaint Over the Amount of Rent**

If the complaint is over the amount of rent which the Property Management claims are due, the complainant shall deposit in the Property Management Tenant Escrow account, the amount needed to bring the tenant current with the entire rental amount due and payable on the first of the month preceding the month of the Property Management's act on which the tenant seeks a grievance hearing and shall, after that, deposit the same amount of the monthly rent in MHA's Tenant Escrow account when due, pending settlement of the dispute by the Informal Hearing Officer or the completion of all Grievance Panel procedures, including the time allotted the Property Management to appeal the decision of the Grievance Panel. If the complainant fails to do so by the time allowed to petition for hearings or fails to continue to pay the escrow rent when due until completion of all Informal Hearing and Grievance Panel procedures, the Informal Hearing Officer or Grievance Panel shall determine that the complainant has waived their right to an Informal and/or Grievance Panel hearing. Such determination shall not constitute a waiver of the complainant's right to contest thereafter the local Property Management's disposition of their grievance in an appropriate judicial proceeding. The Executive Director may waive the requirement of an escrow deposit in extenuating circumstances.

### **Answer to the Grievance from the Project Manager**

An answer in writing to each complaint, dated and signed by the Project Manager, shall be delivered, or mailed to the Complainant within ten (10) Days are specifying:

- The proposed disposition of the complaint and the reason, therefore,
- The rights of the complainant to an informal hearing with another member of management, and
- The procedure by which that informal hearing may be obtained, and
- The rights of the complainant to a hearing with the Hearing Panel.

### **Complainant Dissatisfied with the Decision of the Project Manager**

If the tenant is dissatisfied with the proposed disposition of their complaint, they shall return within ten (10) days of delivery of such answer to their complaint or notice from the Property Management to petition the Department Director in writing for an informal hearing. Within ten (10) days of such notice, the Department Director shall set a date for the informal hearing and shall inform the tenant in writing of:

- the date, time, and place of the informal hearing, and
- the tenant's right to a Grievance Panel Hearing, and
- the consequences of failure to petition for an informal hearing.

### **Failure to Petition for an Informal Hearing Within the Timeframe**

If the tenant fails to petition for an Informal Hearing within ten (10) days, without good cause, they will be held to have waived their right to an Informal Hearing and a Grievance Panel Hearing, and the proposed MHA disposition of the complaint shall be binding. Such determination shall not constitute a waiver of the complainant's right to appeal after the fact, the local Property Management's disposition of their grievance in an appropriate judicial proceeding.

### **Complainant Dissatisfied with the Decision of the Informal Hearing Officer**

If the tenant is dissatisfied with the decision of the Informal Hearing Officer they shall, within ten (10) days of

delivery of such determination, to their complaint or notice from the Property Management, petition the Department Director in writing for a Grievance Panel Hearing. Upon such notice, the Department Director shall:

- set a date for the Grievance Panel Hearing, and
- inform the Tenant in writing of the date, time, and place of the Grievance Panel hearing, and
- consequences of failure to petition for a Grievance Panel hearing.

#### **Failure to Petition for Grievance Panel Hearing Within the Timeframe**

If the tenant fails to petition for a Grievance Panel hearing within ten (10) days, without good cause, they will be held to have waived their right to a Grievance Panel hearing and the proposed Property Management disposition of the complaint shall be binding. Such determination shall not constitute a waiver of the complainant's right to contest the local Property Management's disposition of their grievance in an appropriate judicial proceeding.

#### **Applicant Grievances**

An applicant's grievance or complaint must be personally presented in writing and signed by the complainant to the Property Management Main office. Said grievance or complaint must be filed within ten (10) days of the Property Management action or failure to act, which is the basis for the grievance and must specify:

- the grounds upon which it is based, and
- the action requested.

#### **Answer to Applicant's Grievance from Department Director**

An answer in writing to each complaint dated and signed by the Department Director shall be delivered or mailed to the complainant within ten (10) days specifying:

- the proposed disposition of the complaint and the reason, therefore, and
- the rights of the complainant to an informal hearing with another member of management, and
- the procedure by which that informal hearing may be obtained, and
- the rights of the complainant to a hearing.

#### **Complainant Dissatisfied with the Decision of Department Director**

If the applicant is dissatisfied with the proposed disposition of their complaint, they shall, within ten (10) days of delivery of such answer to their complaint or notice from the Property Management, petition the Department Director in writing for an informal hearing. Upon such information, the Department Director shall set a date for the informal hearing and shall inform the tenant in writing of the date, time, and place. The Department Director shall also notify the complainant of their right to a Grievance Panel Hearing.

#### **Failure to Petition for an Informal Hearing Within the Timeframe**

If the applicant fails to petition for an Informal Hearing within ten (10) days, without good cause, they will be held to have waived their right to such hearing and the proposed Property Management disposition of the complaint shall be binding. Such determination shall not constitute a waiver of the complainant's right to after that contest the local Property Management's disposition of their grievance in an appropriate judicial proceeding.

#### **Complainant (Applicant) Dissatisfied with the Decision of the Informal Hearing Officer**

If the applicant is dissatisfied with the decision of the Informal Hearing Officer, they shall, within ten (10) days of delivery of such determination to their complaint or notice from the Property Management, petition the

Department Director in writing for a Grievance Panel Hearing. Upon such notice, the Department Director shall:

- set a date for the Grievance Panel Hearing, and
- inform the tenant in writing of the date, time, and place of the Grievance Panel Hearing, and
- shall also notify the Secretary of the Board of Tenants' Affairs in writing of the date, time, and place of the Grievance Panel Hearing, and
- consequences of failure to petition for Grievance Panel Hearing.

#### **Failure to Petition for Grievance Panel Hearing Within the Timeframe**

If the applicant fails to petition for a Grievance Panel Hearing within ten (10) days, without good cause, they will be held to have waived their right to a Grievance Panel Hearing and the proposed Property Management disposition of the complaint shall be binding. Such determination shall not constitute a waiver of the complainant's right to contest the local Property Management's disposition of their grievance in an appropriate judicial proceeding.

#### **7.1.3 Entitled to Counsel**

All tenants or applicants for tenancy, as well as the Property Management, shall be entitled to an Informal Hearing and a Grievance Panel Hearing. At such hearings, the complainants may be represented by counsel or other persons chosen as a representative.

#### **7.1.4 Informal Hearings**

##### **Private Informal Hearings**

The Informal Hearing shall be private. The Grievance Panel Hearing shall be private unless the complainant requests and the Grievance Panel agrees to a public hearing. The complainant may examine before the hearing and, at their expense, copies of all documents, records, and regulations of the Property Management relevant to the hearing. Any documents in possession of the Property Management which are not made available after request therefore by the complainant may not be relied on by the Property Management or the project management at the hearing. The complainant may request in advance, at their expense, a transcript of any hearings.

##### **Cancellation of Informal Hearings**

If the complainant fails to notify the Informal Hearing Officer in writing of a request to postpone the hearing within 24 hours of the time of the scheduled hearing, the Informal Hearing Officer will determine that the complainant has waived their rights to the Informal Hearing and the Grievance Panel Hearing.

##### **Waiver of Informal Hearing Procedure**

The Property Management can waive the informal hearing steps if MHA believes that the Informal Hearing Officer would not CHANGE the decision of the management person answering the complaint. The Property Management shall give reasons for its determination.

##### **Request by the Complainant to Bypass Informal Hearing Procedure**

The complainant may request that the informal hearing process be bypassed. The complainant must explain why they are requesting a waiver of the Informal Hearing. The Property Management reserves the right to deny such waiver.

#### **7.1.5 Cancellation of Grievance Panel Hearings**

If the complainant or the Property Management fails to notify the Department Director in writing of a request

to postpone the Grievance Panel Hearing within 24 hours of the scheduled hearing, the Grievance Panel may make a determination to postpone the hearing for not to exceed five (5) business days or may determine that the party has waived their rights to the Grievance Panel Hearing. Both the complainant and the Property Management shall be notified of the decision by the Hearing Panel.

#### 7.1.6 Burden of Proof

At the Grievance Panel Hearing and in all cases except evictions, the complainant must make a prima facie case. Then the burden of proof is on the Property Management to justify the action or inaction proposed by it in its answer to the complaint. In cases dealing with evictions, the burden of proof is on the Property Management to justify the proposed expulsion. The complainant may present evidence and arguments in support of their complaint, controvert evidence relied on by the Property Management, and confront and cross-examine all witnesses on whose testimony or information the Property Management relies.

#### 7.1.7 All Parties to Take Oath

All parties testifying at Grievance Panel Hearings shall take an oath, to tell the truth. Such oath is to be administered by the CHAIRPERSON of the Grievance Panel Hearing.

#### 7.1.8 All Decisions of the Grievance Panel

##### **Communication of Decision**

The Grievance Panel shall prepare its written decision, including a statement of findings and conclusions and the reasons or basis for all material issues raised by the parties. This shall be done within seven (7) days after the hearing date. Copies, therefore, shall be mailed or delivered to the parties and their representatives.

The decision of the Hearing Panel shall be based solely and exclusively upon facts presented at the hearing upon Tennessee law, the Federal Minimum Housing Act of 1937, HUD regulations, and applicable Property Management rules and regulations.

##### **The Decision in Favor of the Tenant or Applicant**

If the decision of the Hearing Panel is in favor of the complainant, the Property Management shall promptly take all action necessary to carry out such decision or refrain from any action prohibited by such decision unless the Executive Director for the Property Management determines and notifies the complainant and the Board of Tenant Affairs in writing within ten (10) days that the Hearing Panel has acted arbitrarily or exceeded its authority. The notice to the complainant shall specify that the Executive Director will ask that the Board of Commissioners for the Property Management pass a resolution at the next regularly scheduled meeting; the answer would state that the Hearing Panel has acted arbitrarily or exceeded its authority. Such notice shall also indicate the time and date of the next regularly scheduled meeting of the Board of Commissioners. The Board of Commissioners of the Property Management must notify the complainant in writing within five (5) days of its decision that the resolution passed or failed. If the Board of Commissioners passed such a resolution, the Property Management might commence an action to regain possession of the premises pursuant to Article---- of the lease and thereby incur the burden of proving that the contested decision was arbitrary and capricious. In such judicial proceedings, the Property Management shall be limited to invoking against the complainant the grounds originally relied on by the Property Management in its proposed disposition of the complaint.

##### **The Decision in Favor of Property Management**

If the decision of the Grievance Panel is in favor of the Property Management, an action to regain possession may not be commenced until after the tenant's right to use and/or occupy the premises has been terminated



pursuant to the notice provisions of the lease. Such notice to vacate may not be given before the date on which the Grievance Panel's decision upholding the proposed eviction is delivered or mailed to the tenant.

## **7.2 Grievance Policy**

### **7.2.1 Right to a Hearing**

Upon the filing of a verbal or written request within a reasonable timeframe as provided in these procedures, a resident shall be entitled to a hearing before a Hearing Officer. All residents of public housing are afforded ample opportunity for a fair and impartial hearing on matters involving the public housing lease executed between the resident and MHA.

In accordance with Federal Regulation 24 CFR § 966.51, this Grievance Procedure shall be applicable to all individual grievances between the tenant and Memphis Housing Authority. The MHA grievance procedure is not applicable to disputes between tenants not involving MHA or to class grievances (residents that file a grievance together). The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and MHA's Board of Commissioners. This grievance policy is not applicable to Enterprise Income Verification (EIV) discrepancies or three-day lease terminations.

### **7.2.2 Definitions**

For the purpose of this Grievance Procedure, the following definitions are applicable.

#### **Grievance**

Any dispute which a resident may have with respect to Memphis Housing Authority's action or failure to act in accordance with the individual resident's lease or MHA regulations which adversely affect the individual resident's rights, duties, welfare, or status. Grievance does not include any dispute a resident may have with MHA concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of MHA's public housing premises by other residents or employees of MHA; or any violent or drug-related criminal activity on or off such premises. Nor shall this process apply to disputes between residents not involving MHA or to class grievances.

#### **Complainant**

Any resident whose grievance is presented to MHA or at the development management office in accordance with sections 3.0 and 4.0 of this procedure.

#### **Development**

A public housing facility, which is under the management of MHA or its designee.

#### **Property Manager**

The representative of MHA who is responsible for the daily operation and management of a public housing development.

#### **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 resident of the grounds for terminating the tenancy and for eviction;

- Right of the resident to be represented by counsel;
- Opportunity for the resident to refute the evidence presented by MHA including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and
- A decision on the merits.

### **Hearing Officer**

An impartial person or persons selected by MHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training.

### **Informal Settlement**

The first step in the hearing process. If the grievance involves a lease termination for criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents or employees of MHA, there is no informal settlement, and the resident must request a formal grievance hearing. MHA will accept grievances either orally or in writing submitted to the development's management office within 10 business days of the event. Within 10 business days of receipt of the request MHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant. MHA will prepare a summary of such discussion within 10 business days of the Informal Settlement meeting; one copy will be given to the tenant, and one retained in MHA's tenant file.

### **Resident**

The adult person (or persons) other than a live-in aide:

- Who resides in the unit and who executed the lease with MHA as lessee of the premises, or, if no such person now resides in the premises,
- Who resides in the unit and who is the remaining head of household of the resident family residing in the unit.

### **Resident Organization**

Includes a resident management corporation.

### **Promptly**

Within the time period indicated in a notice from MHA of a proposed action which would provide the basis for a grievance if the resident has received a notice of a proposed action from the agency.

### **7.2.3 Applicant's Informal Review**

Applicants denied program participation or removed from the waiting list shall be notified of such determination in writing and provided with 10 calendar days to request an informal review, generally after initial interview. It is an applicant's responsibility to notify MHA when there is a change in address. Applicants whose mail is returned by the post office will be automatically withdrawn from the waiting list.

If MHA proposes to deny admission based on a family member's criminal record, upon request from the applicant, MHA will provide the family member with a copy of the criminal record either before or at the informal review and provide an opportunity to dispute the accuracy and relevance of that record.

Once a waiting list is closed, applicants that have not been selected, did not show to initial interview, or refused a unit without good cause will not be granted an informal review once the waiting list has been dissolved.

#### 7.2.4 Requesting an Informal Review

Applicants may request an informal review in writing to the address or fax number indicated on the adverse action notice. The request must be made within 10 calendar days from the date of the notice. The MHA, at its sole discretion, may schedule an informal review at the applicant's request, beyond this timeframe, on a case-by-case basis. MHA will schedule the review for the next available hearing date and forward written notification to the applicant.

#### 7.2.5 Informal Review Procedures

The informal review will be conducted by designated MHA staff that shall listen to testimony or other evidence that the applicant may wish to present. Representatives from mixed finance developments may attend applicant's informal reviews to provide guidance on Low Income Housing Tax Credit (LIHTC) regulations and to explain reasons for denial of assistance.

If the applicant fails to appear at a scheduled informal review, except for verifiable good cause, the applicant is in automatic default and the decision rendered by the designated MHA staff in their absence shall be final. The final decision shall be made in writing within 14 calendar days of the informal review. However, the informal reviewer's decision shall not abridge any other rights the applicants have under law.

#### 7.2.6 Procedures Prior to a Hearing

Any grievance shall be promptly and personally presented, either orally or in writing, to MHA office or the property management office so that the grievance may be discussed informally and settled without a hearing. This must occur within TEN (10) business days of the occurrence or non-occurrence of the event. A summary of such discussion shall be prepared within TEN (10) business days and one copy shall be given to the resident and one retained in the MHA's resident file. The summary shall specify the names of the participants, dates of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and shall specify the procedures by which a hearing under these procedures may be obtained if the resident is not satisfied.

MHA may establish an expedited grievance procedure in the following circumstances, bypassing the requirement for informal settlement:

- Terminations or evictions that involve criminal activity that threatens the health, safety, or right to peaceful enjoyment of MHA's premises by other residents or MHA employees; or
- Terminations or evictions that involve drug-related or violent criminal activity on or off the premises.

#### Eviction Actions

If a resident has requested a grievance hearing in accordance with this policy, the eviction procedure is suspended until the Hearing Officer produces its written decision. If the Hearing Officer upholds the decision of MHA to terminate the tenancy, eviction proceedings may be instituted immediately. If the resident fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action may be brought against them which may require that they pay court costs and attorney fees.

#### 7.2.7 Procedures to Obtain a Hearing

##### REQUEST FOR HEARING

The resident shall submit an oral or written request for a hearing to MHA or the development office within TEN

(10) business days from the date of the mailing of the summary of the discussion. The written request shall specify:

- The reasons for the grievance; and
- The action or relief sought.

#### **SELECTION OF A HEARING OFFICER**

A grievance hearing shall be conducted by an impartial person appointed by MHA's Executive Director, other than a person who made or approved the action under review or a subordinate of such person.

#### **FAILURE TO REQUEST A HEARING**

If the resident does not request a hearing within Ten (10) business days, then MHA's disposition of the grievance shall become final. However, failure to request a hearing does not constitute a waiver by the resident of the right thereafter to contest MHA's action in disposing of the complaint in an appropriate judicial proceeding.

#### **HEARING PREREQUISITE**

All grievances shall be promptly presented in person, either orally or in writing, pursuant to the informal procedure as a condition precedent to a hearing under this Section. However, if the resident can show good cause why there was failure to proceed to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

#### **ESCROW DEPOSIT**

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which MHA claims is due, the resident shall pay to MHA an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The resident shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by MHA until the complaint is resolved by decision of the Hearing Officer. Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, MHA may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the resident may have to contest MHA's disposition of his grievance in any appropriate judicial proceeding.

If a grievance concerns the denial of a financial hardship exemption from the minimum rent requirement or the effect of welfare benefit reductions in the calculation of family income, the requirement for an escrow deposit is waived.

#### **SCHEDULING OF HEARINGS**

Upon the resident's compliance with this section the Hearing Officer shall be scheduled within 30 days from receipt of the request for the next available date. The hearing will be scheduled for a time and place reasonably convenient to both the resident and MHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the resident and the appropriate agency official.

The Hearing must be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the tenant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer must require MHA, the tenant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the

directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and the granting or denial of the relief sought, as appropriate.

#### 7.2.8 Procedures Governing the Procedure

The resident shall be afforded a fair hearing, which shall include:

- The opportunity to examine before the grievance hearing any Authority documents, including records and regulations that are directly relevant to the hearing. The resident shall be provided a copy of any such document at the resident's expense. If MHA does not make the document available for examination upon request by the resident, MHA may not rely on such document at the grievance hearing.
- The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf;
- The right to a private hearing unless the resident requests a public hearing;
- The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the Authority or development management, and to confront and cross examine all witnesses upon whose testimony or information MHA or development management relies; and
- A decision based solely and exclusively upon the facts presented at the hearing.
- The resident or housing authority can arrange in advance at their own expense for a transcript of the hearing. Anyone can purchase a copy of the transcript.
- The grievance hearing shall be held before the Hearing Officer at MHA's central office or the development in which the complainant resides, unless otherwise relocated for good cause.
- The resident has the right to a swift decision, rendered, and based only on the evidence presented at the Grievance Hearing.

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.

If either the resident or Authority fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for up to FIVE business days or determine that the missing party has waived their right to a hearing. Both MHA and the resident shall be notified of the Hearing Officer's decision. This decision shall not waive a resident's right to contest the disposition of the grievance in an appropriate judicial proceeding.

The following accommodation will be made for persons with disabilities:

- MHA shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
- If the resident is visually impaired, any notice to the resident that is required by these procedures must be in an accessible format.

If the resident is a person with limited English proficiency, MHA will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons."

A Grievance Hearing may be held via telephone conference, if requested no less than three business days prior to the grievance hearing, in situations where a health condition or mobility prevents any of the parties from

attending the grievance hearing in person.

#### **INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS ON INELIGIBLE IMMIGRATION STATUS**

The participant family may request that MHA provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the Notice of Denial or Termination of Assistance, or within 30 days of receipt of the INS appeal decision.

##### **7.2.9 Decision of the Hearing Officer**

The Hearing Officer shall prepare a written decision, together with the reasons therefor, within fourteen (14) calendar days after the hearing. A copy of the decision shall be sent to the resident and MHA. MHA shall retain a copy of the decision in the resident's folder.

MHA will maintain a log of all hearing officer decisions. The log shall contain the date of the hearing, the general reason for the grievance hearing (i.e., failure to pay rent, community service noncompliance, etc.), and who the decision favored. The log shall be available to the hearing officer or a prospective complainant or the complainant's representative.

The decision of the Hearing Officer shall be binding on MHA who shall take all actions, or refrain from any actions, necessary to carry out the decision unless MHA's Board of Commissioners determines at its next meeting, and promptly notifies the complainant of its determination, that:

- The grievance does not concern MHA action or failure to act in accordance with or involving the resident's lease or Authority regulations, which adversely affect the resident's rights, duties, welfare or status;
- The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, HUD regulations, or requirements of the Annual Contributions Contract between the Authority and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer or Board of Commissioners in favor of MHA or which denies the relief requested by the resident in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the resident may have to a trial do novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

### **7.3 Repayment Agreements**

When a resident owes MHA retroactive rent or back charges and is unable to pay the balance by the due date, the resident may request that MHA allow them to enter into a Repayment Agreement. MHA has the sole discretion of whether to accept such an agreement. The total amount paid will not exceed 40% of monthly adjusted income. All Repayment Agreements must be in writing and signed by both parties. They must include the following elements:

- Reference to the paragraphs in the Public Housing lease whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the PHA.
- The terms of the agreement may be renegotiated if there is a decrease or increase in the family's

income.

- Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

Refusal to enter into a Repayment Agreement for monies owed will subject the family to eviction procedures.

MHA's residents admitted to other programs such as the Section 8 Housing Choice Voucher, and Section 8 Project- Based Voucher programs managed by MHA, private managed or to another housing authority must repay outstanding balances owed. In such cases, repayment agreements are not authorized.

### **Standards for Repayment**

If a repayment agreement is offered to a resident in lieu of full payment, it will be in writing and will be within the following guidelines:

- The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income.
- The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.
- Tenants have the option to repay the retroactive rent balance as follows:
  - In a lump sum payment; or
  - Monthly installment; o
  - A combination of 1 and 2, above (For example, a tenant may owe \$1,000, make a lump sum payment of \$300 and enter into a repayment agreement for the remaining balance of \$700.)



## CHAPTER 8 - Transfers

### 8.1 Transfers

MHA recognizes that there are situations in which families must move, or transfer, from one unit to another, or from one property to another. The following types of transfers are allowed within the scope of MHA operation:

- Demolition, Disposition, Revitalization or Rehabilitation including RAD conversions.
- Emergency due to Physical Hazards
- Emergency due to Other Causes
- Reasonable Accommodation
- Occupancy Standards
- Split Family Transfers
- Household Composition Changes
- Tenant Initiated
- Transfers under the VAWA

#### 8.1.1 Types of Transfers

##### **Demolition, Disposition, Revitalization or Rehabilitation Including RAD Conversions**

MHA must provide transfers or alternative housing to families when necessary to demolish, sell, or do major revitalization or rehabilitation work at a building or site.

MHA may also choose to revitalize or rehabilitate distressed public housing using Capital Funds or other redevelopment funding sources such as RAD. RAD is another preservation tool that allows PHAs to improve or modernize public housing. Through RAD, a PHA may apply to convert all or a portion of its public housing stock to long-term project-based Section 8 contracts. In some instances, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655) (URA), will require the PHA to provide resources to relocate displaced families. These resources may include comparable housing, payment of actual and reasonable relocation expenses, and counseling.

##### **RAD-Converted Developments**

MHA may provide families with tenant-based assistance such as assistance under the Housing Choice Voucher (HCV) Program; transfer families to a project-based housing unit or transfer families to other public housing units. The transfer or alternative housing arrangement must be comparable housing that meets housing quality standards (be decent, safe, and sanitary); be located in an area that is generally not less desirable than the location of the displaced persons; and include similar accommodations for persons with disabilities displaced from a unit with reasonable accommodations.

##### **Section 18 Demolition/Disposition**

If residents are relocated due to a demolition and/or disposition, MHA must follow relocation requirements at 24 CFR § 970.21, and not the relocation requirements at 49 CFR part 24, which implements the URA, as amended. However, if subsequent acquisition, rehabilitation, or demolition carried out with HUD funds or carried out with other HUD-funded activities causes residents to relocate, the URA may apply to those relocations. Additionally, if Community Development Block Grant (CDBG) or HOME Investment Partnerships Program funds are used in the demolition or with conversion of lower-income dwelling units to a use other than lower-income dwelling units, the project may be subject to section 104(d) of the Housing and Community

Development Act of 1974, including relocation assistance and one-for-one replacement provisions under 24 CFR part 42 subpart C.

## **Section 22 Voluntary Conversions**

To the extent that tenants are displaced as a direct result of demolition, acquisition, or rehabilitation of real property that receives federal financial assistance through the conversion of public housing as described in the Streamlined Voluntary Conversions of Last Remaining Projects of Small Public Housing Agencies notice (Notice PIH-2019-05), the requirements of the URA, and its implementing regulations at 49 CFR part 24 apply.

## **Emergency due to Physical Hazards**

In certain cases, MHA must provide an emergency transfer when there is damage to a family's unit or building, or the site poses an immediate hazard to the life, health, or safety of an occupant. If alternative accommodations are available and MHA cannot make the necessary repairs within a reasonable amount of time, MHA is required to provide the family with alternative housing. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted. Examples of such unit or building conditions may include but are not limited to:

- Fire damage;
- A gas leak;
- Lack of water or heat in the building during the winter
- Toxic contamination or
- Serious Water Leaks
- Damages incurred to roofs or other structural elements due to a Natural Disaster
- Lead Hazard reduction/remediation

When MHA conducts lead hazard reduction activities in a unit, it must protect families and their belongings, which can sometimes mean transferring families temporarily. MHA must prevent families from entering the worksite until after hazard reduction work has been completed and clearance, if required, has been achieved. In some cases, families may have to be temporarily relocated to a suitable unit that is free of lead-based paint hazards before and during the hazard reduction activities. Families are obligated to comply with these types of transfers.

For MHA to remain compliant with its lease obligations, any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours. In emergency situations when no other appropriate public housing units are available, it is common practice for MHA to cover the cost of hotel accommodations until repairs are made or a transfer to alternative housing is completed.

If a resident must be temporarily relocated for the duration of the emergency from a unit that had cooking facilities to a temporary unit that lacks basic cooking facilities (e.g., a hotel), the development will reimburse the increased out of pocket costs for meals. A resident who has been moved to such a location in an emergency must be returned to their original unit or relocated to other decent, safe, and sanitary housing within a reasonable amount of time after the emergency has abated.

### **Emergency due to Other Causes**

MHA may allow for a transfer to:

- Alleviate a verified medical condition of a life-threatening nature;
- Alleviate a threat assessed by a law enforcement professional; or
- Protect members of the household from criminal activity at the property or in the neighborhood.

### **Reasonable Accommodation**

MHA may authorize reasonable accommodation transfers when a family member requires an accessible unit due to a disability. This kind of transfer may be requested for a variety of reasons, including, but not limited to:

- The family's need for a ground floor unit because of mobility issues; or
- The family's need for a unit with certain physical features that are not available in the current unit, and which cannot be retrofitted without undue financial and administrative burden to MHA.

Reasonable accommodation transfers are often tenant-initiated. MHA will not force a family to transfer to another unit because a member of the family has a disability. The Property Manager or designee must provide residents who wish to initiate a Reasonable Accommodation transfer with the necessary reasonable accommodation forms.

Families needing special consideration because of a disability will be accommodated before under and over housed families, whenever possible.

A tenant without disabilities that is housed in a unit with special features must transfer to a unit without such features at MHA's expense should a resident or approved applicant with disabilities need the unit.

### **Occupancy Standards**

Occupancy standards relate to the appropriate size and type of unit based on household composition. MHA must ensure that the size and type of unit in which the household is living is appropriate for the household's size and needs. When household composition changes, MHA must put the respective household on the transfer list and move them when a unit becomes available, if they are not in an appropriately sized unit.

Transfers to correct occupancy standards are recommended at time of reexamination or interim reexamination. Residents in over/under-housed units will be notified in writing. If a household reports, or MHA becomes aware of a change in household composition, then MHA will determine whether the unit is still appropriately sized. For example:

- A household may be considered over-housed for a unit when an adult child leaves the household; or
- A household may become under-housed for a unit when a new child or an adult joins the household.

All public housing leases must include a clause wherein the tenant agrees to transfer to an appropriate size unit based on household composition, upon appropriate notice by MHA that such a unit is available. MHA will not require a family residing in a unit too large for its needs to transfer into a smaller unit unless the Waiting List reflects a need for the occupied unit.

Families that are over housed will be given priority over families that are under housed.

### **Split Family Transfers**

MHA has the option to allow very large families with two adult members to split into two separate households and transfer to two units. MHA might offer a split family transfer if, for example, the family composition changed and now requires a seven-bedroom unit, but MHA only has four-bedroom units available. A split family transfer is a type of occupancy standards transfer. Examples of an allowable split family transfer are:

- The persons who would be the original and new family head of household (HOH) must both be listed on the most recent lease. (This prohibits individuals from extending their “visits” to the family to obtain a unit);
- The family must be overcrowded according to MHA’s occupancy standards; and
- The reason for the family split must be the addition of children through birth, adoption, or court-awarded custody.

### **Household Composition Changes**

Families are required to request MHA approval before adding any family member as an occupant of the unit, other than those entering the family by birth, adoption, or court-awarded custody. Failure on the part of the family to comply with the household composition provisions is a violation of the lease terms, for which MHA may terminate the lease.

New additions to the family must be evaluated to allow the addition of a new member. The new member must:

- Pass MHA screening criteria;
- Contribute to family reunification (e.g., the return of an incarcerated parent);
- Makes transfer to a larger sized unit necessary and if a unit is available;
- Satisfies a tenant’s request for a reasonable accommodation request.

### **Tenant Initiated**

MHA will consider requests for transfers that are not out of necessity, such as moving to another section of the property to be closer to family members, other neighborhoods, employment, or a child’s school. These transfers will be processed on an individual basis and are subject to availability in the desired location.

Tenant-initiated transfers will be processed with new admissions using a ratio of 1 transfer for every 4 new admissions. This ratio is discretionary and will be reviewed at least annually to determine its effects on vacancy. Based on recommendations from site staff, the Division Director may authorize a change in the ratio or temporarily suspend processing of tenant-initiated transfers.

### **Transfers under the VAWA**

In accordance with VAWA, tenants who are victims of domestic violence, dating violence, sexual assault or stalking can request an emergency transfer from the tenant’s current unit to another unit. HUD requires MHA to adopt an Emergency Transfer Plan (ETP), based on HUD’s model ETP (form HUD-5381) and incorporates strict confidentiality measures.

MHA’s ETP must allow tenants to make an internal emergency transfer under VAWA when a safe unit is immediately available; a victim determines whether the unit is safe. The plan must also describe policies for assisting tenants when a safe unit is not immediately available. Those policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that

housing providers may already provide to other types of emergency transfer requests. The ETP also must describe reasonable efforts MHA will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available.

MHA may request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking in accordance with the regulation at 24 CFR § 5.2007. However, no other documentation may be required to qualify the tenant for an emergency transfer.

VAWA does not impact MHA's authority to establish and define other transfer policies; it only requires that specific policies be established for transfers under VAWA. Please see Notice PIH 2017-08 for additional detailed guidance on VAWA emergency transfer requirements.

#### 8.1.2 Priorities Among Types of Transfers

The following types of transfers will occur in order of priority:

- 1) Emergency due to physical hazards;
- 2) Emergency due to other causes;
- 3) Demolition, disposition, revitalization, or rehabilitation;
- 4) Reasonable accommodation;
- 5) VAWA emergency transfer;
- 6) Occupancy standards;
- 7) Split family;
- 8) Tenant-initiated.

#### When Transfers Take Precedence Over Waiting List Admissions

Generally, the types of transfers that take precedence over waiting list admission may include, but are not limited to:

- Emergencies;
- Reasonable accommodations;
- Demolition, disposition, revitalization, and rehabilitation; and
- Occupancy standards transfers.

#### Highest Priority

Emergency and certain administrative transfers will take priority over new admissions if the condition of the unit poses an immediate threat to the resident's life, health or safety, as determined by MHA. Examples are:

- defects hazardous to health or safety need to be repaired.
- verified medical problems of a life-threatening nature need to be alleviated.
- threat assessment by a law enforcement agency that a family member is in danger of attack by criminal element or subject to hate crimes in a particular property or neighborhood.
- unit is slated for modernization.
- individuals needing an available unit that is accessible or adapted for use by handicapped or disabled.

#### Mandatory and Optional Transfers

Tenants must comply with the following transfers:

- Emergencies due to physical hazards;
- Demolition, disposition, revitalization, and rehabilitation;
- MHA-initiated occupancy standard transfers defined as mandatory in the ACOP (e.g., the family is

- under-housed or over-housed and there is a waiting list for that unit size); and
- Other MHA-initiated transfers defined as mandatory.

However, tenants may choose to request and/or accept transfers for other circumstances including, but not limited to:

- Reasonable accommodations
- Emergencies due to other causes
- Occupancy standards (non-mandatory)
- VAWA emergencies
- A split family
- Tenant initiated requests

#### 8.1.3 Eligibility for Transfers

MHA has established the following eligibility criteria for optional transfers:

- Tenants/household members have not engaged in criminal activity threatening the health and safety of residents and staff;
- Tenant does not owe any back rent or other charges, or does not have a pattern of late payments;
- Tenant is in compliance with all aspects of the lease;
- Tenant does not have any outstanding housekeeping lease violations or history of damaging property; and
- Tenant has the ability to get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).

Requests for exceptions to these requirements based on disability will be considered on a case-by-case basis. An exception to these requirements may be granted by the Division Director if the type of transfer is due to an emergency or due to planned redevelopment, demolition, new construction, rehabilitation and/or repairs to the assigned unit.

Victims of domestic violence, dating violence, sexual assault, or stalking that are granted the housing protections under VAWA are exempt from these requirements.

MHA will maintain a list of families (by number of bedrooms) that need to be transferred. A centralized waiting list will be administered by MHA's Asset Management department. Site managers are responsible for submitting transfer requests, along with any supporting documentation, to MHA's Asset Manager. The family name shall be placed on this list on the day MHA becomes aware of family composition change or other circumstances requiring a change and approves the request to transfer.

#### 8.1.4 Costs for Transfers

MHA will bear the costs of the following transfers:

- Initiated by MHA for demolition, disposition, revitalization, or rehabilitation purposes;
- Required due to conditions that pose a physical hazard (i.e., building system failure, or other emergency conditions that cannot be repaired within 24 hours); and/or
- Required as a reasonable accommodation for families with disabilities.

Costs for MHA mandated transfers will be covered by the property in which the resident is being displaced

from. The reasonable costs for transfers may include not only the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid utility services (i.e., telephone and cable television). Tenants will bear the costs of the following transfers:

- Emergency due to other causes
- Corrections of occupancy standards due to household composition changes
- Split family transfers
- Tenant initiated
- VAWA

#### 8.1.5 Transfers to Uniform Federal Accessibility Standard (UFAS) Unit

Transfers of residents with disabilities and placement of applicants with disabilities requiring UFAS -Accessible Units, or units with accessible features will be placed in an available UFAS unit. When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant, accessible unit and occupying a unit not having those features.

If there is no current resident in the same development who requires the accessibility features of the vacant, accessible unit, then the unit will be offered to a resident with disabilities residing in another development that requires the accessibility features of the unit.

If there is not an eligible, qualified resident or applicant with disabilities on the waiting list who wishes to reside in the available, accessible unit, then it will be offered to an applicant on the waiting list who does not need the accessible features of the unit. See 24 CFR § 8.27. MHA's Public Housing Dwelling Lease requires residents to relocate to a vacant, non-accessible unit within 30 days of notice by MHA if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.

#### 8.1.6 Administrative Requirements for Transfer Offers

Residents will be transferred to a dwelling unit of equal size, either within a location or site or between locations or sites only to alleviate hardships as determined by MHA. Residents will receive one offer of a transfer. Refusal of that offer without good cause may result in Lease termination. The "good cause" standard that is applicable to new admissions will also apply to transfers.

Involuntary transfers are subject to the Grievance Procedure, and other than emergencies, no such transfers may be completed until either the time to request a grievance has expired or the procedure has been completed.

A family who has been approved for a transfer will receive a letter providing a housing offer that they must accept or refuse within three (3) business days. The acceptance or refusal of the housing offer must be hand-delivered or mailed to the development office. If the family rejects the offer, a second offer can be made only for good cause. If the resident fails to respond, they will be removed from the transfer list and notified in writing.

Transfer residents, 18 years of age and older, are exempt from pre-admission screening, including credit and criminal background checks.

In the case of involuntary transfers, tenant shall be required to move into the dwelling unit made available by



MHA. Tenant shall be given 15 days' time in which to move following delivery of a transfer notice. If tenant refuses to move, MHA may terminate the lease.

When transferring to a unit that is both public housing and tax credit, the resident's annual recertification month will update to match the tax credit move-in month. Non-tax credit units will keep the same recertification month as the original admission date.

Upon signing the new Lease, the resident is required to move within 15 calendar days or may face eviction proceedings in accordance with MHA's Lease.

If a resident is relocated due to an emergency transfer because of needed repair of unit defects hazardous to life, health, or safety, the relocated resident shall have first right to return to the project once a unit becomes available or their unit is completed. Whichever comes first.

## **8.2 Relocation Policy**

### **8.2.1 Relocation of Residents**

#### **Temporary Relocation**

Residents that are displaced from their units for less than 12 months due to modernization are placed under temporary relocation. MHA must provide temporary relocation tenants with:

- A written notice of the dates and duration of the temporary relocation at least 30 days prior to the relocation taking place;
- Information on alternative housing available; and
- Reimbursement for all reasonable out-of-pocket expenses, including the cost of moving to and from the temporary housing and any increase in monthly rent/utilities costs, upon presentation of acceptable receipts.

#### **Permanent Relocation**

Residents that are displaced from their units for 12 months or more due to modernization of public housing units are placed under permanent relocation and may be relocated to comparable vacant public housing units based on availability. The impacted residents will not be considered part of the public housing transfer waiting list and will be provided with:

- Applicable meeting(s) to inform of available or potentially available alternative housing which may include new acquisition(s) of public housing units.
- Written Information on alternative housing which may include new acquisition(s) of public housing units that may be under HUD-approval process.
- Written notice of the date of relocation and other requirements in accordance with the Uniform Relocation Act (URA), if applicable.
- Reimbursement of reasonable out-of-pocket expenses, including moving expenses, upon presentation of acceptable receipts.

After all affected residents have been permanently relocated, any remaining vacant units in a new acquisition development may be filled from the transfer list or waiting list.

MHA must give the resident no less than 30 days to decide between permanent and temporary relocation

assistance. If the resident chooses to permanently relocate with assistance at URA levels, MHA must inform the resident that his or her acceptance of permanent relocation assistance terminates the resident's right to return to the completed project.

For residents that elect temporary relocation assistance and reoccupies a unit in the completed project within one year, the resident need not be offered permanent relocation assistance pursuant to URA. If a resident elect to receive temporary relocation assistance and the temporary relocation exceeds one year, the resident becomes eligible for all permanent relocation assistance and payments under URA. (This assistance would be in addition to any assistance the person has already received for temporary relocation and may not be reduced by the amount of any temporary relocation assistance.)

In such event, MHA shall give the resident the opportunity to choose to remain temporarily relocated for an agreed-to period (based on new information about when they can return to the completed unit) or choose to permanently relocate with URA assistance. MHA may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA. If the resident elects to permanently relocate with URA assistance, the MHA must inform the person that the person's acceptance of URA relocation assistance to permanently relocate will terminate the person's right to return to the completed project. Conversely, unless and until the resident elects to be permanently relocated, the resident may remain temporarily relocated with a right to return to the completed project.

#### 8.2.2 Emergency Due to Physical Hazard: Displaced Residents

When residents displaced due to physical hazards MHA will provide an emergency transfer when there is damage to a family's unit or building, or the site poses an immediate hazard to the life, health, or safety of an occupant. If alternative accommodations are available and the development cannot make the necessary repairs within a reasonable amount of time, the development is required to provide the family with alternative housing. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours. In emergency situations when no other appropriate public housing units are available, the development will cover the cost of hotel accommodations until repairs are made or a transfer to alternative housing is completed.

In an emergency, if a resident must be temporarily relocated for the duration of the emergency from a unit that had cooking facilities to a temporary unit that lacks basic cooking facilities (e.g., a hotel), the development will reimburse the increased out of pocket costs for meals. A resident who has been moved to such a location in an emergency must be returned to their original unit or relocated to other decent, safe, and sanitary housing within a reasonable amount of time after the emergency has abated.

#### 8.2.3 Temporary Relocation (URA and Non-URA Relocation Assistance)

Residential tenants, who will not be required to move permanently, but who must relocate temporarily (e.g., to permit property repairs), shall be provided:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent or utility costs. The party responsible for this requirement may, at its option, perform the

- services involved in temporarily relocating the tenants or pay for such services directly; and
- Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the suitable (and where appropriate, accessible), decent, safe, and sanitary housing to be made available for the temporary period; the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and the right to financial assistance provided under paragraph (e)(1) of this section.

#### 8.2.4 Required Notices to Residents

MHA is responsible for providing notice to residents that need to be relocated. For each notice listed below, one notice shall be given to each resident household. The purpose of these notifications is to ensure that residents are informed of their potential rights and the relocation assistance available to them. During initial meetings with residents MHA should inform residents that if they choose to move after receiving a written General Information Notice (GIN), but prior to receiving a RAD Notice of Relocation, they may jeopardize their eligibility for relocation assistance.

#### **General Information Notice (49 CFR 24.203(a) & Handbook 1378, Paragraph 2-3(B))**

As soon as feasible in the planning process, MHA must provide each resident with a written GIN to provide a general description of the project, the activities planned, and the relocation assistance that may become available. URA regulations state that the GIN should be provided as soon as feasible. Under RAD, MHA must provide GINs during the initial RAD resident meetings, before submitting a RAD application. GINs must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without at least 90 days advance written notice, and inform any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 CFR 24.208(h) for additional information); and
- Describe the resident's right to appeal the MHA's determination as to a person's eligibility for URA assistance.

#### **RAD Notice of Relocation**

If a resident will be relocated to facilitate a RAD conversion, MHA will provide notice of such relocation (RAD Notice of Relocation). MHA will issue this notice upon the receipt of the RCC from HUD, which is the ION date. If residents will not be relocated, notice of relocation is not required, but MHA should notify them that they are not being relocated. The RAD Notice of Relocation must conform to the following requirements:

- The notice must state the anticipated duration of the resident's relocation.

- MHA must provide this notice a minimum of 30 days prior to relocation to residents who will be temporarily relocated. Longer notice may be appropriate if necessary due to personal needs or circumstances.
- Residents whose temporary relocation is anticipated to exceed one year must be informed that they will have no less than 30 days to elect temporary or permanent relocation. When timing is critical for project completion, the 30-day decision period can run concurrently with the 30-day notice period for temporary relocation and with the 90-day period for permanent relocation if the MHA makes available comparable replacement dwellings consistent with 24.204(a).
- Residents who will be permanently relocated must receive written notice a minimum of 90 days prior to relocation. This 90-day time period may only begin once MHA has made available at least one comparable replacement dwelling consistent with 49 CFR 24.204(a).
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must explain the reasonable terms and conditions under which the resident may continue to lease and occupy a unit in the completed project.
- The notice must state that MHA will reimburse the resident for all reasonable out-of-pocket expenses incurred because of any temporary move. These expenses include, but are not limited to, moving expenses and increased housing costs (rent, utilities, etc.).

#### **Notice of Intent to Acquire (49 CFR 24.203(d))**

For RAD projects involving acquisition, residents may be provided with a notice of intent to acquire (“Notice of Intent to Acquire”) prior to the ION date with HUD’s prior approval. Once the Notice of Intent to Acquire is provided, a resident’s eligibility for relocation assistance and payments is established. Therefore, the RAD Notice of Relocation must be provided in conjunction with or after the Notice of Intent to Acquire. A RAD Notice of Relocation would not otherwise be sent prior to the ION date. Since residents who accept permanent relocation must receive 90 days advanced written notice prior to being required to move, providing residents the Notice of Intent to Acquire and RAD Notice of Relocation prior to the ION date may be necessary to provide sufficient notice of relocation to a resident in instances where there may not be 90 days between the issuance of the RCC (ION date) and the anticipated closing date.

#### **URA Notice of Relocation Eligibility**

For residents whose temporary relocation exceeds one year (49 CFR 24.203(b) & Handbook 1378, Paragraph 2-3(C)). After a resident has been temporarily relocated for one year, MHA must provide a notice of relocation eligibility in accordance with URA requirements (“Notice of Relocation Eligibility”). This notice is not required if the resident has already accepted permanent relocation assistance. The Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 CFR Part 24, to HUD Handbook 1378 and to the following requirements:

- MHA must provide updated information as to when it is anticipated that the resident will be able to return to the completed project.
- The resident may choose to remain temporarily relocated based upon such updated information or may choose to accept permanent URA relocation assistance in lieu of exercising the right to return.
- If the resident chooses to accept permanent URA relocation assistance and such assistance requires

that the resident move, the resident will receive 90 days advance written notice from MHA of the earliest date they will be required to move (i.e., 90-Day Notice, 49 CFR 24.203(c)). MHA will begin the 90-day time-period once at least one “comparable replacement dwelling” has been made available as set forth in 49 CFR 24.204(a).

#### 8.2.5 Right to Return

Tenants that are temporarily relocated retain the right to return to the project once it has been completed and is in decent, safe, and sanitary conditions. The period during which residents may need to be temporarily relocated is determined by the period of rehabilitation or construction, which will be specific to each project.

If proposed plans for a project would preclude a resident from returning to a RAD project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, MHA must alter the project plans to accommodate the resident in the converted project. If a resident agrees to such plans, MHA must secure informed, written consent from the resident to receive permanent relocation assistance and payments consistent with URA and acknowledge that acceptance of such assistance terminates the resident’s right to return to the project.

In obtaining this consent, MHA must inform residents of their right to return, potential relocation, and temporary and permanent housing options at least 30 days before residents must make a decision. MHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting permanent relocation assistance and payments. MHA may not terminate a resident’s lease if it fails to obtain this consent. MHA must keep documentation of such information provided to residents and such consent by residents. MHA and participants must properly brief residents on their housing and relocation options and must keep auditable written records of such consultation and decisions.

In all scenarios where residents voluntarily accept permanent relocation to accommodate project plans, these residents are eligible for permanent relocation assistance and payments under URA. If a resident accepts permanent relocation assistance, the resident surrenders his or her right to return to the completed project.

#### 8.2.6 Good Standing Requirement for Returning Residents

Residents will be considered for transfers if the head of household and any other family members:

- have not engaged in criminal activity that threatens the health and safety of residents and staff;
- do not owe back rent or other charges, or evidence a pattern of late payment;
- meet reasonable housekeeping standards and have no housekeeping lease violations;
- in compliance with the lease; and
- able to connect utilities in the name of an adult family member (applicable only to properties with tenant-paid utilities).
- Returning residents, 18 years of age and older, are exempt from pre- admission screening, including credit and criminal background checks.

#### 8.2.7 Evictions for Cause

If MHA determines that a resident was lawfully evicted for serious or repeated violations of the lease, and the eviction was not undertaken for evading the obligation to make available URA payments and other assistance, the resident is not entitled to relocation payments and assistance under the URA (49 CFR 24.206).

## CHAPTER 9 – Pet Ownership

### 9.1 Pet Policy

MHA allows for pet ownership in its developments with the written pre-approval of the development manager. Residents are responsible for any damage caused by their pets, including the cost of fumigating or cleaning their units. In exchange for this right, the resident assumes full responsibility and liability for the pet and agrees to hold MHA harmless from any claims caused by any action or inaction of the pet.

#### 9.1.1 Approval

Residents must have the prior written approval of MHA before moving a pet into their unit. Residents must request permission on the Authorization for Pet Ownership Form, which must be fully completed before MHA will approve the request. Residents must give MHA a picture of the pet so it can be identified if it is running loose.

#### 9.1.2 Types and Number of Pets

MHA will allow only common household pets. This means only domesticated animals such as dogs, cats, birds, rodents (including rabbits), fish in aquariums, or turtles will be allowed in units. Common household pets do not include reptiles (except turtles). If this definition conflicts with a state or local law or regulation, the state or local law or regulation shall govern.

All dogs and cats must be spayed or neutered before they become six months old. A licensed veterinarian must verify this fact. Only one four-legged, warm-blooded animal (i.e., dog, cat, hamster, etc.) is allowed per unit. Such animals shall not exceed 18 inches in height and 25 pounds in weight at maturity.

Animals referenced under Prohibited Animals are not permitted even if they meet the weight and height criteria. In the case of fish, residents may keep no more than can be maintained safely and healthily in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as one pet.

Any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs, will not be allowed.

#### PROHIBITED ANIMALS

Many animals do not meet the definition of a common household pet, and management reserves the sole right to decide regarding any such animal listed under this section. The following includes but is not limited to animals considered to be of a vicious and attacking nature or animals otherwise not traditionally kept in the home for pleasure and therefore will not be permitted on the premises of the MHA properties:

- Any animal whose adult weight will exceed 25 pounds.
- Dogs such as Pit Bulls, Rottweilers, Doberman Pinchers, German Shepherds, Bull Dogs, or breeds not permitted under state or local law or code.
- Reptiles such as snakes, alligators, lizards, iguanas, chameleons, etc.
- Farm animals such as chickens, pigs, cows, mules, horses, etc.
- Wild animals such as lions, leopards, bears, tigers, wolves, etc.
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites.

### 9.1.3 Vaccinations

To be registered, pets must be appropriately vaccinated against rabies, distemper, and other conditions prescribed by state and local ordinances. They must comply with all other state and local public health, animal control, and anti-cruelty laws, including any licensing requirements. A certification signed by a licensed veterinarian or state, or local official shall be annually filed with the MHA to attest to the injections.

### 9.1.4 Pet Deposit

A pet deposit of \$300 is required when registering a pet. The deposit for a birdcage or fish tank is \$50 (limited to two (2) twenty-gallon tanks per household). If requested, MHA may offer the tenant a payment plan for the pet deposit of \$50 up front and \$50 payable the following months not to exceed six months and two months for birds and fish. The deposit is refundable when the pet or the family vacates the unit, less any amounts owed due to damage beyond normal wear and tear. A separate deposit is required for each pet.

If the resident permanently removes the registered pet from the unit or the pet dies, the agency will refund any unused portion of the pet deposit to the tenant within thirty (30) days after the removal of the pet and unit has been assessed by management for pet damage.

### 9.1.5 Financial Obligation of Residents

Any resident who owns or keeps a pet in their dwelling unit will be required to pay for any damages caused by the pet. Upon vacating the unit, the resident will be billed for any amount that exceeds the pet deposit. Also, any pet-related insect infestation in the pet owner's unit will be the pet owner's financial responsibility, and MHA reserves the right to exterminate and charge the resident.

### 9.1.6 Nuisance and Threat to Health or Safety

The pet and its living quarters must be maintained to prevent odors and any other unsanitary conditions in the owner's unit and surrounding areas.

Repeated substantiated complaints by neighbors or MHA personnel regarding pets disturbing the peace of neighbors through noise, odor, animal waste, or another nuisance may result in the owner having to remove the pet or move him/herself. Pets who make noise continuously and/or incessantly for 10 minutes or intermittently for one-half hour or more to the disturbance of any person at any time of day or night shall be considered a nuisance.

### 9.1.7 Registration

All pets must be registered at the following events:

- Initial occupancy of tenant or pet
- At annual reexamination
- At a change in pet status

Registration forms are attached to this ACOP in the Appendixes section.

The Landlord will not register an animal that is:

- Not a common household pet.
- If resident has previously been charged with animal cruelty under state and local laws or has been



relinquished or prohibited from future pet ownership by a court order.

- Landlord reasonably determines that resident is unable to keep the pet in compliance with the pet rules and other lease obligations.
- The pet's temperament and behavior may also be considered as a factor; and
- If Residents fails to fully complete the pet registration process.

If MHA refuses to register a pet, a written notification will be sent to the Resident within 10 business days of MHA'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 MHAs grievance procedures.

#### 9.1.8 Designation of Pet Areas

Pets must be kept in the owner's apartment or on a leash when outside the unit (no outdoor cages may be constructed). Pets will be allowed only in designated areas on the property's grounds if MHA designates a pet area for the site. Pet owners must clean up after their pets and are responsible for disposing of pet waste.

Except for assistive or support animals, no pets shall be allowed in the community room, kitchen, laundry rooms, public bathrooms, lobby, beauty shop, hallways, or office in any of our sites.

To accommodate residents who have medically certified allergic or phobic reactions to dogs, cats, or other pets, those pets may be barred from certain wings (or floors) in our development(s)/building(s). This shall be implemented based on demand for this service.

#### 9.1.9 Miscellaneous Rules

Pets may not be left unattended in a dwelling unit for over 24 hours. If the pet is left alone and no arrangements have been made for its care, MHA will have the right to enter the premises and take the uncared-for pet to be boarded at a local animal care facility at the total expense of the resident.

Pet bedding shall not be washed in any common laundry facilities.

Residents must take appropriate actions to protect their pets from fleas and ticks. All dogs must wear a tag bearing the resident's name and phone number and the date of the latest rabies vaccination.

Pets cannot be kept, bred, or used for any commercial purpose.

Residents are prohibited from feeding or harboring stray animals. This does not apply to visiting pet programs sponsored by a Human Society or other non-profit organizations approved by the Landlord.

Residents owning cats shall maintain waterproof litter boxes for cat waste. Refuse from litter boxes shall not accumulate or become unsightly or unsanitary. Litter shall be disposed of appropriately.

A pet owner shall physically control or confine their pet during the times when MHA employees, agents of MHA, or others must enter the pet owner's apartment to conduct business, provide services, enforce lease terms, etc.

If a pet causes harm to any person, the pet's owner shall be required to permanently remove the pet from

MHA's property within 24 hours of written notice from MHA. The pet owner may also be subject to termination of their dwelling lease.

A pet owner who violates any other conditions of this policy may be required to remove their pet from the development within ten calendar days of written notice from MHA. The pet owner may also be subject to termination of their dwelling lease. MHA's grievance procedures shall apply to all individual grievances or disputes arising out of violations or alleged violations of this policy.

#### 9.1.10 Visiting Pets

Tenants are not permitted to "pet-sit" any pets or animals. Tenants shall not allow their guests or visitors to bring any animal prohibited under this Pet Policy to their dwelling unit or the premises.

#### 9.1.11 Responsible Person

A "Responsible Person" is any family member at least 18 years of age with the physical stamina and mental alertness to keep the pet under control and must be:

- Familiar with the pet's temperament, disposition, and behavior patterns.
- Aware of and willing to abide by the pet rules and lease provisions.
- Able and willing to provide proper nourishment, medical attention, and general good care and treatment of the pet.

#### 9.1.12 Removal of Pets

MHA, or an appropriate community authority, shall require the removal of any pet from a project if the pet's conduct or condition is determined to be a nuisance or threat to the health or safety of other occupants of the project or of other persons in the community where the project is located.

MHA will issue the tenant a written notice stating the violations. The resident will have 10 days from the effective date of the notice to correct the violation(s). If the tenant refuses or fails to correct the violation(s) in 10 days, MHA will then serve the tenant with a written notice to remove the pet. If the Resident refuses or fails to remove the pet within 30-days of the written notice, MHA will then issue a lease termination. The resident will have a right to request a grievance under MHA's grievance and appeal policy.

In the event of illness or death of a pet owner, or in the case of an emergency which would prevent the pet owner from adequately caring for the pet, MHA has permission to call the emergency caregiver designated by the resident or the local Pet Law Enforcement Agency to take the pet and care for it until family or friends would claim the pet and assume responsibility for it. Any expenses incurred will be the responsibility of the pet owner.

#### 9.1.13 Service and Assistance Animal Exclusion

This policy does not apply to animals used to assist persons with disabilities. Service and assistance animals are allowed in all public housing facilities. Residents must ensure service 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.

For an animal to be excluded from the pet policy and be considered a service animal, the person seeking to use and live with the animal must have a disability; and the person seeking to use and live with the animal must

have a disability-related need for the service or assistance the animal provides.

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. MHA approves a reasonable accommodations request.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the person's disability. MHA will verify the existence of the disability and the need for the accommodation—if either is not readily apparent. Accordingly, persons seeking a reasonable accommodation for an emotional support animal will be required to provide documentation from a physician, psychiatrist, social worker, or another mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects the current disability.

In addition, MHA is not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others. Thus, if the animal requested by the individual with a disability has a history of dangerous behavior, we will not accept the animal into our housing. Moreover, we are not required to make a reasonable accommodation if the presence of the assistance animal would (1) result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation; (2) pose an undue financial and administrative burden; or (3) fundamentally alter the nature of the provider's operations.

## **9.2 Assistance Animal Policy**

Assistance Animals are Not Considered Pets. They are to be used to give assistance to persons with disabilities (a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such impairment) and are necessary as a reasonable accommodation. Assistance animals are also referred to as service animals, support animals or therapeutic animals. An assistance animal may be disallowed to an owner for failure to comply with the assistance animal policy.

A tenant, or prospective tenant, must obtain written permission from the site manager, Property Manager, or designee before keeping any assistance animal on or about the premises. Written permission shall not be unreasonably denied. The assistance animal owner must register their assistance animal according to all requirements of the Policy before bringing the assistance animal onto the project premises. Assistance animal owners must comply with all terms of the Lease Agreement and the Policy.

MHA will only allow a tenant's or prospective tenant's assistance animal to reside in the tenant's unit if the requested animal assists the person with a disability.

### **9.2.1 Deposits**

Owners of assistance animals are not required to pay a pet deposit described herein. Notwithstanding this exception from having to pay a deposit does not exclude the assistance animal owner from liability for any damages caused to the premises by such assistance animal.

### **9.2.2 Nuisance**

Any assistance animals that are determined to constitute a nuisance or a threat to the health or safety of other

persons on or about the premises are prohibited.

### 9.2.3 Revoke Ownership

Assistance animal ownership may be revoked at any time subject to MHA's grievance procedure, if the assistance animal becomes destructive, a nuisance or safety hazard to other residents, or if the resident/owner fails to comply with the following rules:

- The assistance animal owner must use the designated area for walking assistance animals and waste elimination that is determined at each site individually.
- Every resident owning an assistance animal must abide by state and local Animal Control ordinances pertaining to inoculations, licenses, and leash laws. Proof of such compliance must be shown when the animal is first registered and at annual re-examinations.
- No assistance animal may be kept in violation of state humane or health laws, or local ordinances.
- Dogs and cats that are assistance animals shall remain inside the resident's unit unless they are on a leash and directly controlled by the animal's owner. Birds, rabbits, and/or guinea pigs, etc. must always be confined to a cage.
- Residents are responsible for cleaning up after their assistance animals. All assistance animals must be fed on the resident's property or in the apartment.
- Owners of assistance animals must care for their animals in such a way as to ensure that their premises are maintained in a clean and sanitary condition.
- Owners of assistance animals must control their animals in such a way as to ensure that their animals do not interfere with their neighbors' rights to enjoy their premises in a safe and peaceful manner. The assistance animals must not be a nuisance or threat to the safety of other residents, visitors, MHA employees and/or any other persons on or about the premises are prohibited.
- Assistance animals shall not interfere with the delivery of management, maintenance, postal, utility, or resident services.
- If an assistance animal is left unattended for 24 hours or more, MHA may enter to remove the animal and transfer it to the proper authorities. MHA accepts no responsibility for the animal under such circumstances. Residents are to identify an alternative custodian for their assistance animals in the event of illness or other absence from the unit.

### 9.2.4 Waiver

MHA will consider a waiver to any of the provisions of the Assistance Animals section of this Policy regarding assistance animals on a case-by-case basis, should any of the provisions of the Policy conflict with a resident's bona fide right to an assistance animal where such animal is necessary to a resident as a reasonable accommodation.

### 9.2.5 Violation(s)/Removal

All residents who own assistance animals will abide by the above-mentioned guidelines and will sign a copy of the provision governing ownership and care of the assistance animal. Residents who violate these rules are subject to:

- MHA issuing the tenant a written notice stating the violations and the resident will have 10 days from the effective date of the service of the notice to correct the violation(s).
- If the tenant refuses or fails to correct the violation(s) in 10 days, MHA will then serve the tenant with a written notice to remove the pet.
- If the tenant refuses or fails to remove the pet within 30-days of the written notice MHA will then issue

a lease termination. The tenant will have a right to request a grievance under the MHA's grievance and appeal policy.

- In the event of Emergency Removal, MHA 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 the resident or referring the situation to the appropriate state or local entity authorized to remove such animal if the pet is removed because of aggressive act on the part of the pet, the pet will not be allowed back on the premises. All cost will be the responsibility of the tenant (shelter facility fee, removal fee, quarantine, medical treatment, and/or euthanasia fees).

## CHAPTER 10 - Utilities

### 10.1 Utilities

All utility service shall be individually metered to residents, either through provision of retail service to the residents by the utility supplier or through the use of check meters, unless:

- Individual metering is impractical, such as in the case of a central heating system in an apartment building;
- Change from a master metering system to individual meters would not be financially justified based upon a benefit/cost analysis; or
- Check metering is not permissible under State or local law, or under the policies of the particular utility supplier or public service commission.

If check metering is not permissible, retail service shall be considered. Where check metering is permissible, the type of individual metering offering the most savings to MHA shall be selected.

#### 10.1.1 Resident Allowances for Utilities

In rental units for which utilities are furnished by MHA but there are no check meters to measure the actual utilities consumption of the individual units, residents shall be subject to charges for consumption by resident-owned major appliances, or for optional functions of MHA-furnished equipment, in accordance with 24 CFR § 965.502(e) and 965.506(b), but no utility allowance will be established.

#### 10.1.2 Establishment of Utility Allowances

MHA shall establish allowances for MHA-furnished utilities for all check metered utilities and allowances for resident-purchased utilities for all utilities purchased directly by residents from the utility suppliers. MHA shall maintain a record that documents the basis on which allowances and scheduled surcharges, and revisions thereof, are established and revised. Such record shall be available for inspection by residents. MHA shall give notice to all residents of proposed allowances, scheduled surcharges, and revisions thereof.

Such notice shall be given, in the manner provided in the lease, not less than 60 days before the proposed effective date of the allowances or scheduled surcharges or revisions; shall describe with reasonable particularity the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances or scheduled surcharges; shall notify residents of the place where MHA's record is available for inspection; and shall 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 scheduled surcharges or revisions. Such written comments shall be retained by MHA and shall be available for inspection by residents.

Schedules of allowances and scheduled surcharges shall not be subject to approval by HUD before becoming effective but will be reviewed in the course of audits or reviews of MHA operations. MHA's determinations of allowances scheduled surcharges, and revisions thereof shall be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. Separate allowances shall be established for each utility and for each category of dwelling units determined by MHA to be reasonably comparable as to factors affecting utility usage.

### **MHA-Furnished Utilities**

Allowances will normally be established on a quarterly basis; however, residents may be surcharged monthly. The allowances established may provide for seasonal variations.

### **Resident-purchased utilities**

Monthly allowances shall be established. The allowances established may provide for seasonal variations.

#### **10.1.3 Utility Allowance Standards**

The objective of MHA in designing methods of establishing utility allowances for each dwelling unit category and unit size shall be 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.

Allowances for both MHA-furnished and resident-purchased utilities shall be designed to include such reasonable consumption for major equipment or for utility functions furnished by MHA for all residents (e.g., heating furnace, hot water heater), for essential equipment whether or not furnished by MHA (e.g., range and refrigerator), and for minor items of equipment (such as toasters and radios) furnished by residents.

The complexity and elaborateness of the methods chosen by MHA, in its discretion, to achieve the foregoing objective will depend upon the nature of the housing stock, data available to MHA and the extent of the administrative resources reasonably available to MHA to be devoted to the collection of such data, the formulation of methods of calculation, and actual calculation and monitoring of the allowances.

In establishing allowances, MHA shall take into account relevant factors affecting consumption requirements, including:

- The equipment and functions intended to be covered by the allowance for which the utility will be used. For instance, natural gas may be used for cooking, heating domestic water, or space heating, or any combination of the three;
- The climatic location of the housing projects;
- The size of the dwelling units and the number of occupants per dwelling unit;
- Type of construction and design of the housing project; The energy efficiency of MHA-supplied appliances and equipment;
- The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total resident payment;
- The physical condition, including insulation and weatherization, of the housing project;
- Temperature levels intended to be maintained in the unit during the day and at night, and in cold and warm weather; and
- Temperature of domestic hot water.

If MHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning, MHA shall not include air conditioning in the utility allowances. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 24



CFR § 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.

#### 10.1.4 Utilities Paid by the Resident

Utility accounts established and maintained by the residents must be in the name of an adult family member listed in the Public Housing Lease. Illegal tampering to obtain utility services or changing the utility accounts to an adult person that is not listed in the Public Housing Lease are grounds for termination of the Lease.

If utilities are disconnected due to nonpayment, the resident has 24 hours to restore services. Failure to maintain utilities is grounds for lease termination.

#### 10.1.5 Utility Allowance Surcharges for Excess Consumption of MHA Furnished Utilities

For dwelling units subject to allowances for MHA-furnished utilities where check meters have been installed, MHA shall establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated blocks of excess consumption and shall be based on MHA's average utility rate. The basis for calculating such surcharges shall be described in MHA's schedule of allowances. Changes in the dollar amounts of surcharges based directly on changes in MHA's average utility rate shall not be subject to the advance notice requirements of this section.

For dwelling units served by MHA-furnished utilities where check meters have not been installed, MHA shall establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of MHA-furnished equipment. Such surcharge schedules shall state the resident-owned equipment (or functions of MHA-furnished equipment) for which surcharges shall be made and the amounts of such charges, which shall be based on the cost to MHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

#### 10.1.6 Review and Revision of Allowances

##### **Annual Review**

MHA shall review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to the standards stated in 24 CFR § 965.505, shall establish revised allowances. The review shall include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by MHA) indicating probability of a significant change in reasonable consumption requirements and changes in utility rates.

##### **Revision as a Result of Rate Changes**

MHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based. Adjustments to resident payments because of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes shall not be subject to the 60-day notice requirement of 24CFR § 965.502(c).

#### 10.1.7 Individual Relief

Requests for relief from surcharges for excess consumption of MHA-purchased utilities, or from payment of

utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by MHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as MHA shall deem appropriate. MHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time MHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of MHA representative with whom initial contact may be made by residents), and MHA's criteria for granting such relief, shall be included in each notice to residents given in accordance with 24 CFR § 965.502(c) and in the information given to new residents upon admission.

## CHAPTER 11 – Community Service and Self Sufficiency

### 11.1 Community Service

To be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities), (2) participate in an economic self-sufficiency program, or (3) perform eight hours per month of joint activities as previously described unless they are exempt from this requirement. The eight hours of activity may be completed at eight hours each month or aggregated across a year, as long as 96 hours are completed by each annual certification.

#### 11.1.1 Exemptions

The following adult family members of tenant families are exempt from this requirement:

- Family members who are 62 or older.
- Family members who are:
  - blind or disabled as defined under 216(l)(1) or 1614 of the Social Security Act (42 U.S.C. 416(l)(1), Section 1382(c)) and who certifies that because of this disability, they are unable to comply with the community service requirements; or
  - Family members who are the primary caregiver of such an individual.
- Family members engaged in work activities for at least 30 hours per week:
  - Unsubsidized employment;
  - Subsidized private sector employment;
  - Subsidized public-sector employment;
  - Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
  - On-the-job-training;
  - Job search;
  - Community service programs;
  - Vocational educational training (not to exceed 12 months concerning 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; and
  - Satisfactory attendance at secondary school or in the course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.
- Able to meet requirements under a State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or any other welfare program in our State, including a State-administered Welfare-to-Work program; or
- 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 (42 U.S.C. Section 601 et seq.), or under any other welfare program of our State (HUD has determined that the Supplemental Nutrition Assistance Program (SNAP) qualifies as a welfare program of the state. Therefore, if a tenant is a member of a family receiving assistance under SNAP and has been found by the State to be in compliance with the program requirements, that tenant is exempt from the CSSR, including a 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 a program.

- Members of an NPHOI family do not have to comply with the Community Services Activities or Self-Sufficiency Work Activities.

#### 11.1.2 Notification of the Requirement

MHA shall identify all adult family members who are not exempt from the community service requirement at initial occupancy and at each annual reexamination. MHA shall notify all such family members of the community service requirement and the categories of individuals exempt from the requirement. The notification will allow family members to claim and explain an exempt status in writing. MHA shall verify such claims. If a resident disagrees with MHA's determination, they can appeal by following the Grievance Policy. Changes in the exempt or non-exempt status of a resident shall be reported by the resident to MHA within ten (10) calendar days of the change.

At lease execution or re-examination, all adult members (18 or older) of a public housing resident family must:

- Provide all requested documentation, if applicable, that they qualify for an exemption; (Documentation provided by the tenant will be used (and verified if necessary) by MHA to determine whether the tenant is exempt from the CSSR), and
- Sign a certification that they have received and read the policy and understand that, if they are not exempt, failure to comply with the community service requirement will result in non-renewal of their lease, per 24 CFR 966.4(1)(2)(iii)(D).

When a non-exempt person becomes exempt, it is their responsibility to report this to MHA and provide documentation. When an exempt person becomes non-exempt, it is their responsibility to report this to MHA as soon as possible.

For families paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

#### 11.1.3 Volunteer Opportunities

Eligible community service activities include, but are not limited to, serving at:

- Local public or non-profit institutions, such as schools, Head Start Programs, before- or after-school programs, childcare 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);
- Non-profit organizations serving MHA residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, beautification programs;
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
- Public or non-profit 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;

- MHA housing to improve grounds or provide gardens (so long as such work does not alter MHA's insurance coverage), or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board, outreach and assistance with MHA-run self-sufficiency activities including supporting computer learning centers; and
- Care for the children of other residents so parents may volunteer.
- Volunteering for PHA community watch programs and building monitoring.
- Volunteering for community outreach or awareness activities for the PHA, nonprofits, or other organizations.
- Participating and assisting with resident council activities.

To facilitate easier documentation of the community service provided, residents shall work exclusively for non-profits or a governmental agency. Any required court-ordered community service or probation-based work shall not count towards a resident's required 8 hours per month of community service. Eligible self-sufficiency activities include, but are not limited, to:

- Job readiness or job training while not employed;
- Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers;
- Higher education (junior college or college);
- Trade Schools Apprenticeships (formal or informal);
- Substance abuse or mental health counseling;
- Reading, financial and/or computer literacy classes;
- English as a Second Language and/or English proficiency classes;
- Budgeting and credit counseling.

MHA will try to coordinate with social service agencies, local schools, and the Human Resources Office in identifying a list of volunteer community service positions. Together with the resident advisory councils, MHA may create volunteer positions such as hall monitoring, litter patrols, and supervising and record-keeping for volunteers.

MHA with a ROSS Service Coordinators program or Family Self-Sufficiency (FSS) program may coordinate Individual Training and Services Plans (ITSPs) with CSSR. The ITSP is a tool to plan, set goals and track movement towards self-sufficiency through education, work readiness and other supportive services such as health, mental health and work supports. Specific CSSR activities may be included in ITSPs to enhance a person's progress towards self-sufficiency. Regular meetings with MHA coordinators may satisfy CSSR activities and MHA Service Coordinators or FSS Program Coordinators may verify community service hours within individual monthly logs.

#### 11.1.4 The Process

Upon admission and each annual reexamination thereafter, MHA will do the following:

- Provide a list of available volunteer opportunities to the family members.
- Provide information about obtaining suitable volunteer positions.
- Provide a volunteer timesheet to the family member. Instructions for the timesheet require the individual to complete the form and have a supervisor date and sign for each work period.
- Assign family members to a volunteer coordinator who will assist the family members in identifying appropriate volunteer positions and in meeting their responsibilities. The volunteer coordinator will

track the family member's progress monthly and meet with the family member as needed to encourage compliance.

At each regularly scheduled rent re-examination, each non-exempt family member will present a signed certification on a form provided by MHA of CSSR activities performed over the previous twelve (12) months. MHA will obtain third-party verification of CSSR completion administered through outside organizations. Each development will be responsible for monitoring all community service self-sufficiency requirements and activities. The Statement will include:

- A statement certifying that the resident has completed the number of hours required and the statement is subject to penalties of perjury.
- A description of the activity that the resident has completed.
- The name, address, and contact information of the person/organization where/which activity was completed.

#### 11.1.5 Notification of Non-Compliance with Community Service Requirement

If a family member is found to be non-compliant at re-examination, they and the Head of Household will sign an agreement with MHA to make up the deficient hours over the next 12-month period or certify that the non-compliant family member is no longer in the household. MHA will notify any family found to be in noncompliance with the following:

- The family member(s) has been determined to be in noncompliance;
- That the determination is subject to the grievance procedure, a right to be represented by counsel, and the opportunity to any available judicial remedy; and
- That, unless the family member(s) enter into a written work-out agreement, the lease will not be renewed.

#### 11.1.6 Opportunity for a Cure

MHA will offer the family member(s) the opportunity to enter into a work-out agreement before the anniversary of the lease. The contract shall state that the family member(s) agrees to enter into an economic self-sufficiency program or contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. It will state the number of hours that the family member is deficient. The cure shall occur over the 12 months beginning with the date of the agreement, and the resident shall at the same time stay current with that year's community service requirement. The first hours a resident earns go toward the recent commitment until the current year's commitment is made.

The volunteer coordinator will assist the family member in identifying volunteer opportunities and will track compliance every month.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform community service, MHA shall take action to terminate the lease unless the non-compliant family member no longer lives in the unit.

#### 11.1.7 Prohibition Against Replacement of Agency Employees

In implementing the service requirement, MHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by its employees or replace a job at any location

where residents perform activities to satisfy the service requirement.



## CHAPTER 12 - VAWA

### 12.1 VAWA Policy

The purpose of this policy is to implement the requirements of the Violence Against Women Act (VAWA) with respect to the responsibilities of MHA regarding domestic violence, dating violence, sexual assault, and stalking. This policy shall be applicable to all the federally subsidized housing programs administered by MHA and shall be part of the Public Housing Admissions and Continued Occupancy Policy (ACOP) by reference. Protections under this policy are available to all victims regardless of sex, gender identity, or sexual orientation and will be applied consistently with all nondiscrimination and fair housing requirements.

#### 12.1.1 Covered Housing Programs

- Public Housing;
- Housing Choice Voucher;
- Project-based Section 8 and Section 8 Moderate Rehabilitation Single Room Occupancy;
- Section 202 Supportive Housing for the Elderly, including Section 202 Direct Loan;
- Section 811 Supportive Housing for Persons with Disabilities;
- Housing Opportunities for Persons With AIDS (HOPWA);
- HOME Investment Partnerships (HOME);
- Emergency Solutions Grants and Continuum of Care program;
- Multifamily rental housing under Section 221 (d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to Section 221(d)(5);
- Multifamily rental housing under Section 236 of the National Housing Act; and
- Housing Trust fund program.

#### 12.1.2 Goals and Objectives

- Maintaining compliance with all applicable legal requirements imposed by VAWA
- Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault, and stalking
- Providing and maintaining housing opportunities for victims of domestic violence, dating violence, sexual assault, and stalking
- Creating and maintaining collaborative arrangements between MHA, law enforcement authorities, victim service providers and others to promote the safety and well-being of victims of actual or threatened domestic violence, dating violence, sexual assault, and stalking.
- Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, sexual assault and stalking affecting individuals assisted by MHA.

#### 12.1.3 Definitions

##### **Affiliated individual**

With respect to an individual, means:

- A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- Any other person living in the household of that individual.

## **Domestic Violence**

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

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

## **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 is determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

D. Economic Abuse - The term 'economic abuse', in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- Restrict a person's access to money, assets, credit, or financial information;
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

## **Perpetrator**

A person who commits acts of domestic violence, dating violence, sexual assault, or stalking against a victim.

## **Sexual Assault**

Is any type of sexual contact or behavior that occurs without the explicit consent of the recipient, including when the individual lacks capacity to consent.

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

## **Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's individual safety or the safety of others or suffer substantial emotional distress.

## **Technological Abuse**

The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

## **VAWA Self Petitioner**

Refers to noncitizens who claim to be victims of “battery or extreme cruelty.” Battery or extreme cruelty includes domestic violence, dating violence, sexual assault, and stalking. VAWA allows these noncitizens to self-petition for Lawful Permanent Resident (LPR) status without the cooperation of or knowledge of their abusive relative.

### **12.1.4 Notifications Provided**

All applicants and tenants of all PHA Housing Programs will be provided HUD-5380, "Notification of Occupancy Rights Under the Violence Against Women Act (VAWA)," and HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documents" at the following times

- At time of denial of assistance or admission
- At time of providing of assistance or admission
- At any eviction or termination
- At recertification or lease renewal

These forms will be provided in the applicable language, if necessary, in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency).

### **12.1.5 Admissions and Screening**

MHA will not deny assistance or admission to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, provided that such person is otherwise qualified for admission.

An applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, may request that MHA take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, MHA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information.

MHA will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

### **12.1.6 Termination of Tenancy or Assistance**

#### **VAWA Protections**

A tenant may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

- The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant and

- The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be considered as a serious or repeated violation of the lease by the victim or threatened victim or good cause for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such incident.

### **Limitations of VAWA Protections**

Nothing in the above section limits the authority of MHA to comply with a court order with respect to the rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking, or the distribution or possession of property among members of a household.

Nothing in the above section limits any available authority of MHA to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking. However, MHA will not hold to a more demanding standard, a tenant or an affiliated individual who is or has been a victim of or domestic violence, dating violence, sexual assault, or stalking.

Nothing in the above section limits the authority of MHA to evict or terminate from assistance any tenant or lawful applicant if:

- PHA can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from the assistance, and
- No other actions that could be taken to reduce the threat have been successful, including transferring the victim to a different unit, barring the perpetrator from the property, involving law enforcement, or seeking other legal remedies to prevent the perpetrator from acting on a threat.

### **12.1.7 Verification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

#### **Requirement for Verification**

Subject only to waiver as provided below, MHA shall require verification in all cases where an individual requests protection against an action involving domestic violence, dating violence, sexual assault, or stalking. Verification may be accomplished in one of three ways

- Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking"
- Other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy.
- Police or court record - provided to MHA by federal, state, tribal, or local police or court record describing the incident or incidents in question.

#### **Time Allowed**

An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by MHA to provide verification, must provide such verification within 14 business days after receipt of the request for

verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

If MHA 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), MHA has the right to request that the tenant provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. Failure to provide third-party documentation where there is conflicting evidence will result in loss of protection under VAWA and this policy against a proposed adverse action.

#### **Waiver of Verification Requirement**

With respect to any specific case, MHA may waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director or President/CEO. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

#### **12.1.8 Prohibition on Retaliation**

Retaliation in covered housing is prohibited. It is illegal for MHA, an owner, or manager of covered housing to discriminate against any person because that person has opposed any act or practice made lawful by VAWA's housing provisions, or because that person testified, assisted, or participated in any related matter.

It is illegal for MHA, an owner, or manager of a covered housing to coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA's housing provisions.

#### **12.1.9 Right to Report Crime and Emergencies**

VAWA 2022 protects the right to report crime and emergencies from one's home. Landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. This section also prohibits penalizing or threatening to penalize persons because they request assistance or report criminal activity of which they are a victim or otherwise not at fault under the laws or policies adopted or enforced by covered governmental entities.

This provision further requires that covered governmental entities report on their laws or policies, or their subgrantees' laws or policies, that penalize protected persons based on requests for law enforcement or emergency assistance or based on criminal activity that occurred at a property. These entities must also certify compliance with these protections or explain how they will come into compliance or ensure compliance among subgrantees within 180 days of submitting the report to HUD.

Covered governmental entities are advised not to engage in any practices that violate the right to report provided for in Section 603 of VAWA 2022. Furthermore, covered governmental entities should update applicable policies and practices to include the statutory right to report to avoid potential liability under the law.

#### 12.1.10 Non-Citizen Self-Petitioner Verification

Financial assistance to ineligible noncitizens will not be denied while verifying immigration status. Self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance. “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner’s eligibility for assistance.

In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR (Lawfully Permanent Resident). Once MHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, PHA will not request any additional information from the VAWA self-petitioner, other than what is required using the SAVE system to complete the verification.

When MHA receives a self-petition or INS Form 797 Notice of Action, MHA will initiate verification in the SAVE System.

#### Final Determination from the SAVE System

PHA will receive one of two confirmations:

- The VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;
- the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to MHA any evidence of “battery or extreme cruelty.”

Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR (Lawful Permanent Resident) status is made. If the final determination is to deny the VAWA self-petition or LPR petition, MHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

#### 12.1.11 Emergency Transfer Plan

##### Eligibility for Transfer

In accordance with the Violence Against Women Act (VAWA) MHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant’s current unit to another unit, regardless of sex, gender identity, or sexual orientation. The ability of MHA to honor such request for tenants currently receiving assistance may depend upon:

- A preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and
- On whether MHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

##### Requesting a transfer

To request an emergency, transfer the tenant shall notify MHA office and submit a written request for a transfer (HUD-5383). MHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

- A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under MHA’s program;

or

- A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

MHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, MHA will act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. MHA may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.

In cases where MHA determines that the family's decision to move out of MHA housing was reasonable under the circumstances, MHA may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

If MHA has no safe and available units for which a tenant who needs an emergency is eligible, MHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move.

At the tenant's request, MHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Safety and Security of Tenants**

The information under the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation form will remain confidential and will be used by MHA only to provide the victims with the exceptions and protections under VAWA. MHA must ensure that private information of victims of domestic violence, dating violence, sexual assault or stalking is protected in accordance with VAWA requirements.

MHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives MHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.



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>.

#### 12.1.12 Other Remedies

##### **Lease Bifurcation**

MHA may bifurcate a lease; that is, remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to that member who engages in criminal activity related to domestic violence, dating violence, sexual assault, or stalking. In such a case, it does not matter that the perpetrator was a signatory to the lease and the victim is allowed to stay in the unit or on the program.

In removing the perpetrator from the household, MHA will follow all federal, state and local eviction procedures. If the evicted person was the eligible person in the household, the remaining tenants will be given 90 days from the date of bifurcation of the lease to:

- Establish eligibility for the program they are currently under
- Establish eligibility under another program, or
- Find alternative housing.

##### **Efforts to Promote Housing Stability**

MHA will make every effort that is feasible and permissible to assist victims to remain in their units or other units of MHA and/or retain assistance.

##### **Relationships with Service Providers**

It is the policy of MHA to cooperate with organizations and entities, both private and governmental, that provide shelter and/or services to victims of domestic violence. If MHA becomes aware that an individual assisted by MHA is a victim of domestic violence, dating violence, sexual assault, or stalking, MHA will refer the victim to such providers of shelter or services as appropriate.

Notwithstanding the foregoing, this Policy does not create any legal obligation requiring MHA either to maintain a relationship with any provider of shelter or services to victims of domestic violence or to make a referral in any particular case. MHA's annual Public Housing Agency Plan shall describe providers of shelter or services to victims of domestic violence with which MHA has referral or other cooperative relationships.

## 12.2 Emergency Transfer Plan

### **Memphis Housing Authority**

#### **Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

##### **Emergency Transfers**

**Memphis Housing Authority (MHA)** is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), MHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of MHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether MHA has another dwelling unit that is available and is safe to offer the tenant for

temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that Memphis Housing Authority is in compliance with VAWA.

### **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify MHA's management office and submit a written request for a transfer to the Property Management office. MHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under MHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

MHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives MHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Tenants for more information about MHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

MHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. MHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If

a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. MHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If MHA has no safe and available units for which a tenant who needs an emergency is eligible, MHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, MHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

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>.

**Attachment 1:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

National Domestic Violence Hotline: 1-800-799-7233

Tennessee Domestic Violence Hotline: 1-800-356-6767

Tennessee Coalition to End Domestic & Sexual Violence

Shelby County Victims and Rape Crisis Center (CVRCC) Serves any resident of Shelby County who is a victim of a crime, or anyone who becomes a victim while visiting the county.

1060 Madison

Memphis, TN 38104

901-222-3950

or the 24-Hour Sexual Assault Hotline -901-222-4350

Family Safety Center- Serves families who have experienced or are experiencing domestic violence.

1730 Madison, 6th Floor violence.

Memphis, TN 38104

901-222-4440

901 -249-7611 (24 Crisis line)

Love Doesn't Hurt- Serves victims of abuse and domestic violence

Info@LOVEDOESNTHURT901.com

(901) 213-1661

YWCA of Greater Memphis/Abused Women's Services- Serves women in the Greater Memphis Area by helping them create safe, stable and secure lives for themselves and their families.(recently have begun serving men that are victims as well).

766 S. Highland Memphis, TN 38111

901 725-4277

Kindred Place

2180 Union Avenue

Memphis, TN 38104

Info@kindred-place.org

901 276-2200

901-276-6828 fax

# Glossary and Acronyms

## Definitions of Terms

### **50058 Form**

The HUD form that housing authorities are required to complete and electronically submit to HUD for each assisted household in public housing to record information used in the certification and re-certification process and, at the option of the housing authority, for interim reexaminations. Housing Authorities must retain at a minimum the last three years of the form 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 date. Electronic retention of form HUD 50058 and HUD 50058-FSS and supporting documentation fulfills the record retention requirement.

### **1937 Housing Act**

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

### **ACOP**

The Admissions and Continued Occupancy Policies (ACOP) for the Public Housing Program.

### **Actual and Imminent Threat**

A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

### **Adjusted Annual Income**

The amount of household income, after deductions for specified allowances, on which tenant rent is based. (24 CFR 5.611).

### **Admission Preference**

Any preference, to the extent authorized by law, the Agency may establish for use in selecting among applicants that respond to local housing needs and priorities.

### **Adult**

A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An emancipated minor is also considered an adult. In the anti-drug portions of this policy, it also refers to a minor who has been convicted of a crime as an adult under any Federal, State, or tribal law.

### **Affiliated individual**

With respect to an individual, means: (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or (2) Any individual, tenant, or lawful occupant living in the household of that individual.

### **Allowances**

Amounts deducted from the household's annual income in determining adjusted annual income (the income

amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly and disabled families, disability expenses, and childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

#### **Alternative Non-Public Housing Rent (Alternative Rent)**

The monthly amount a PHA must charge non-public housing over-income (NPHOI) families, if allowed by PHA policy to remain in a public housing unit, after they have exceeded the 24 consecutive month grace period. The alternative rent is defined at 24 CFR 960.102, as the higher of the Fair Market Rent (FMR) or per unit monthly subsidy. The monthly subsidy provided for the unit, is determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund. See 24 CFR 960.102 for more details about how HUD will calculate and publish such funding amounts.

#### **Annual Contributions Contract (ACC)**

The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

#### **Annual Income**

All amounts, monetary or not, that:

- Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Are not specifically excluded from annual income.
- Are derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609)

#### **Applicant (Applicant Family)**

A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

#### **Arrested**

Taking or seizing a person by legal authority, such as the police, in response to a criminal charge.

#### **Assets**

The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

#### **Asset Income**

Income received from assets held by family members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

**Assistance Animals**

An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability. An assistance animal is not a pet.

**Assistance Applicant**

A family or individual that seeks admission to the public housing program.

**Bifurcate**

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Business Days**

Days the housing authority is open for business.

**Certification**

The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

**Child**

For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

**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 childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (24 CFR 5.603(d))

**Citizen**

A citizen or national of the United States. (24 CFR 5.504(b))

**Community Service**

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.

**Complainant**

Any resident whose grievance is presented to MHA or at the development management office.



### **Consent Form**

Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

### **Continuity of Assistance**

A family is considered continuously assisted if it has been receiving housing assistance under any program of the U.S. Housing Act of 1937 without experiencing an extended interruption during the occupancy of the assisted unit. An interruption of four (4) months between the assisted occupancy of one unit and the assisted occupancy of another unit is considered discontinued assistance.

### **Conviction**

A formal declaration that a person has been found guilty of a criminal offense by a verdict of a jury or a judge in a court of law.

### **Covered Families**

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

### **Covered Housing Program**

The following HUD programs must afford VAWA Projections:

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons with AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act including the Emergency Solutions Grants, the Continuum of Care, and the Rural Housing Stability Assistance
- Multifamily rental housing under section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to section 221(d)(5)
- Multifamily rental housing under section 236 of the National Housing Act
- Public Housing
- Section 8 Housing Choice Voucher
- Section 8 Project-Based Vouchers
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund

### **Covered Housing Provider**

The individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes public housing agencies, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit, or for-profit organizations or entities.

### **Covered Person**

For purposes of the anti-drug provisions of this policy, a covered person is a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

### **Criminal Records**

All criminal arrest records, including but not limited to sex offender registration records for all family members 18 years and over. MHA will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses. The term "criminal records" does not include records unavailable to MHA by operation of law including sealed or expunged records, juvenile records, exempt records under Tennessee's Public Records Act, or other records unavailable to MHA under state and federal laws.

### **Currently Engaging In**

With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current. Arrests alone are not sufficient evidence of criminal activity.

### **Dating violence**

Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) 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; and
- the frequency of interaction between the persons involved in the relationship.

The Tennessee Statute defines "dating violence" as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six (6) months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

### **Decent, Safe, and Sanitary**

Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

### **Deconcentration of Income**

The admission of higher income families (50-80%) of area median income to developments where extremely low-income families predominate and vice versa.

### **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. (24 CFR 5.603(d))

### **Dependent Allowance**

An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

### **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. (24 CFR 5.603(d))

### **Disability Assistance Expense Allowance**

In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

### **Displaced Family**

A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed because of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. (24 CFR 5.403(b))

### **Displaced Person**

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. [1937 Act]

### **Domestic violence**

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

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

### **Drug**

A controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

### **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.

### **Due Process**

An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguard are present by state:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
- Opportunity for the resident to examine all relevant documents, records, and regulations of MHA prior to the trial or grievance hearing for the purpose of preparing a defense;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by MHA including the right to confront and cross-examine witnesses or equitable defense which the tenant may have;
- Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel; and
- The right to a written determination based on evidence presented at grievance hearing.

### **Earnings and Benefits**

The incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

### **Economic Abuse**

The term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to— (A) restrict a person’s access to money, assets, credit, or financial information; (B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or (C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

### **Economic Self-Sufficiency Program**

Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

### **Elderly Family**

A family whose head (including co-head), 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. (24 CFR 5.403)

### **Elderly/Disabled Family Allowance**

For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

### **Elderly Person**

A person who is at least 62 years of age. (1937 Housing Act)

### **Eligibility Income**

This is Annual Income amount which is compared to HUD approved Income Limits to determine if an applicant family is eligible for admission to the housing program.

### **Extremely Low-Income Family**

A very low-income family whose income does not exceed the higher of 30% of the median income for the area (as determined by HUD with adjustments for smaller and larger families) or the Federal poverty level, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

### **Fair Housing Act**

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

### **Family and Family Composition**

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, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together, and 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 (including co-head);
  - A near-elderly family (including co-head);
  - A disabled family (including co-head);
  - A displaced family;
  - The remaining member of a tenant family; and
  - A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family. (24 CFR 5.403)

### **Family Income**

Family Income means the Annual Income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based.

### **Family Members**

All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

### **Family Self-Sufficiency Program (FSS Program)**

The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

### **Family with Person(s) with Disabilities**

A family whose head, co-head, spouse, or sole member is a person with disabilities; or two (2) or more persons

with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

### **Flat Rent**

A rent amount the family may choose to pay in lieu of having their rent determined under the income method. The flat rent is established by the housing authority based on a HUD mandate that it be set at no less than 80% of the FMR, adjusted for tenant-paid utilities. MHA has the flexibility to conduct reexaminations of family income once every three years instead of annually for families that choose to pay the flat rent. The flat rent amount a family pays is not locked in for the three-year period. Instead, MHA must revise the flat rent amount from year to year based on the findings of MHA's rent reasonableness analysis and changes to the FMR.

### **Fraud**

Deceit or trickery deliberately practiced to gain some advantage dishonestly. Fraud is an intentional deception and is not committed accidentally.

### **Full-time Student**

A person who is attending school or vocational training on a full-time basis as defined by the institution.

### **Gender Identity**

Actual or perceived gender-related characteristics.

### **Good Cause**

With respect to refusal of a unit housing offer, "good cause" shall mean that an applicant or resident who are offered a unit can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant or resident to conveniently use the facility. Examples of good cause are included in Chapter III of this policy).

With respect to not attending a scheduled appointment or not providing required documentation, "good cause" shall mean that an applicant or resident can demonstrate through objective evidence that circumstances beyond the applicant/resident's control resulted in non-compliance. Examples may include illness, hospitalization, or emergency incidents.

### **Good Standing**

Residents will be considered in "good standing" if the head of household and any other family members:

- have not engaged in criminal activity that threatens the health and safety of residents and staff;
- do not owe back rent or other charges, or evidence a pattern of late payment;
- meet reasonable housekeeping standards and have no housekeeping lease violations;
- in compliance with the lease; and
- able to connect utilities in the name of an adult family member (applicable only to properties with tenant-paid utilities).

### **Grievance or Complaint**

Shall mean any dispute which a resident may have with respect to a MHA action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other MHA regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

**Guest**

Means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

**Head of Household**

The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (24 CFR 5.504(b))

**Hearing**

A proceeding at which a resident's grievance relating to MHA's adverse action or decision, is heard in order to ensure that the complainant's rights were not violated.

**Homeless (as defined for 50058 reporting purposes)**

An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

or

Any individual or family who:

- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; and
- Has no other residence; and
- Lacks the resources or support networks, e.g. family, friends, and faith-based or other social networks, to obtain other permanent housing.

## **HUD**

The U.S. Department of Housing and Urban Development or its designee. (24 CFR 5.100)

### **Household Members**

All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members are listed on the lease.

### **Housing Assistance Plan**

A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

### **Immediate Family Member**

a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

### **Imputed Income**

For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

### **Imputed Welfare Income**

The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for welfare fraud or the failure to comply with economic self-sufficiency requirements that is nonetheless included in the family's annual income for purposes of determining rent.

### **In-Kind Payments**

Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, babysitting provided on a regular basis).

### **Income Eligibility for Admission**

At least 40% of families admitted to the Public Housing program in each fiscal year must have incomes that do not exceed extremely low-income levels. In each fiscal year, MHA may reduce the targeted public housing admissions to the extent that MHA provides tenant-based Section 8 assistance above the targeted 75% to families that do not exceed extremely low-income levels. The public housing target, however, may not be reduced below 30% of admissions.

### **Income Limits**

Income limits are those published by USHUD for admission of Low-Income and Very-Low- Income families to federally subsidized housing developments.

### **Income Method**

A means of calculating a family's rent based on the greater of 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under the income method, rents may be capped by a



ceiling rent as long as the ceiling rent equals or exceeds the flat rent. Under this method, the family's income is evaluated at least annually.

### **Interim Reexamination**

A reexamination of a family income, expenses, and household composition conducted between the regular annual recertifications when a change in a household's circumstances warrants such a reexamination.

### **Law Enforcement Agency**

The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

### **Live-in Aide**

A person who resides with one or more elderly persons, 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. (24 CFR 5.403(b))

A live-in aide is not a party to the lease.

### **Low Income Families**

Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

### **Major Life Activities**

These include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This is not an exhaustive list; other activities can also be major.

### **Medical Expenses**

Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums, that are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors, dentists, therapists, medical facilities, care for a service animal, transportation for medical purposes.

### **MHA**

Memphis Housing Authority.

### **Minimum Rent**

Statutory requirement that each family assisted under Public Housing programs pay a monthly minimum rent or Total Tenant Payment (TTP) of \$50.00, subject to hardship exemption waiver, if applicable.

**Mitigating Circumstances**

Situations in which a requested reasonable accommodation enables an applicant, resident, or program participant to become lease compliant.

**Mixed Family**

A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

**Mixed Population Development**

A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, MHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

**Monthly Adjusted Income**

One twelfth of adjusted income. (24 CFR 5.603(d))

**Monthly Income**

One twelfth of annual income. (24 CFR 5.603(d))

**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. (24 CFR 5.504(b))

**Near-Elderly Person**

A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; 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. (24 CFR 5.403(b))

**Net Family Assets**

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.

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

terms. (24 CFR 5.603(d))

**Non-Citizen**

A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

**Non-Violent Criminal Activity**

Any criminal activity that is not a Violent Criminal Activity or a Drug-related Criminal Activity, as defined herewith, but that is such that it may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Non-violent criminal activities do not involve the use of any force or injury to another person. Some non-violent crimes include but are not limited to fraud, bribery, prostitution, gambling, vandalism, tax crimes, receipt of stolen goods, larceny, petty theft, public intoxication, etc.

**Non-Public Housing Over-Income Family (NPHOI Family)**

Is defined in 24 CFR 960.102 as a family that has exceeded the over-income limit for 24 consecutive months who remains in a public housing unit, as allowed by PHA policy, paying the alternative rent. These families are no longer public housing program participants and are unassisted tenants.

**Occupancy Standards**

The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Offer**

An offer of a unit that is vacant, appropriate for the household in size and type, and meets applicable housing quality standards.

**Other Person Under the Tenant's Control**

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

**Over-Income Family (OI Family)**

Defined in 24 CFR 960.102 as a family whose income exceeds the OI limit. This term includes families during the grace period or that are in the period before termination and are still public housing program participants. Note that in the public housing program, this term previously referred to a family that is not a low-income family (i.e., a family with an income exceeding 80 percent Area Median Income (AMI)).

**Over-Income Limit (OI Limit)**

Is defined in 24 CFR 960.102. In the regulations, this amount is determined by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4 (i.e., 120 percent of the AMI).

**Participant**

A family or individual that is assisted by the public housing program.

### **Permanently Absent**

A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently absent when one vacates the unit.

### **Person with Disabilities**

A person who:

- Has a disability as defined in 42 U.S.C. 423;
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long continued and indefinite duration;
  - Substantially impedes his or her ability to live independently; and
  - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- Has a developmental disability as defined in 42 U.S.C. 6001.

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

### **Personally Identifiable Information (PII)**

Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

### **PHA Plan**

Is defined in 24 CFR 903.4(a). It is a comprehensive guide to the public housing agency's policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan: the 5-Year Plan, which each PHA submits to HUD once every 5th PHA fiscal year, and the Annual Plan, which is submitted to HUD every year by non-qualified agencies (non-qualified agencies are PHAs that do not meet the definition of a qualified agency).

### **Physical or Mental Impairment**

A variety of conditions, diseases, illnesses, disfigurements, and disorders including hearing/orthopedic/visual/speech impairments, alcoholism, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), cerebral palsy, cancer, or HIV infection, if the impairment substantially limits one or more major life activities.

### **Premises**

For purposes of the anti-drug provisions of this policy it means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

### **Previously Unemployed**

This includes a person who has earned, in the 12 months before employment, no more than would be received for

10 hours of work per week for 50 weeks at the established minimum wage.

**Processing Entity**

The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs, the processing entity is the responsibility entity.

**Program Participant**

A person who successfully follows all of the required steps identified by MHA as necessary for participating in MHA's Public Housing Program.

**Proration of Assistance**

The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR 5.520)

**Public Housing**

Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed-finance project that are assisted by an MHA with capital or operating funds.

**Public Housing Agency**

Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

**Reasonable Accommodation**

A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

**Recertification**

The annual reexamination of a family's income, expenses, and composition to determine the family's rent.

**Remaining Member of the Tenant Family**

A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left.

**Resident**

A person who successfully follows all of the required steps identified by MHA as necessary for residing in a dwelling administered under MHA's Public Housing Program.

**Responsible Entity**

For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means MHA administering the program under an ACC with HUD;

**Self-Declaration**

A type of verification statement by the tenant as to the amount and source of income, expenses, or family

composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

### **Sensitive Personally Identifiable Information**

PII that when lost, compromised, or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

### **Sexual assault**

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

### **Sexual Orientation**

Homosexuality, heterosexuality, or bisexuality.

### **Shelter Allowance**

That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

### **Single Person**

Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a tenant family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

### **Specified Welfare Benefit Reduction**

A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- at the expiration of a lifetime or other time limit on the payment of welfare benefits;
- because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- because a family member has not complied with other welfare agency requirements.

### **Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for the person's individual safety or the safety of others; or (2) Suffer substantial emotional distress.

### **State Wage Information Collection Agency (SWICA)**

The State 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. (24 CFR 5.214)

### **Technological Abuse**

The term 'technological abuse' means an act or pattern of behavior that occurs within domestic violence,

sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

### **Temporarily Absent**

A person or persons not actually residing in a unit for a period of time while still maintaining control of the unit. If the absence exceeds thirty (30) calendar days, the Housing Authority must agree to the absence.

### **Temporary Assistance to Needy Families (TANF)**

The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

### **Tenant**

The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b))

### **Tenant Error**

A tenant error occurs when the tenant, by action or inaction, breaches a lease, regulation, or program requirement because of a misunderstanding of rules. Tenant errors are considered unintentional program violations as compared to fraud (see Fraud definition above).

### **Tenant Rent**

The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance. (24 CFR 5.603(d))

### **Third-Party Verification**

Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

### **Total Tenant Payment**

Total tenant payment for families whose initial lease is effective on or after August 1, 1982:

- Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
  - 30% of the family's monthly adjusted income;
  - 10% of the family's monthly income; or
  - If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.
  - If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.
- Total tenant payment for families residing in public housing does not include charges for excess utility

consumption or other miscellaneous charges.

Total tenant payment for families residing in public housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before November 18, 1996), will continue to govern the total tenant payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

### **Tuition**

The amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Verification of tuition and fees can be obtained from the student's bill or annual statement, by contacting the bursar's office, or from the school's website.

Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must not be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income.

### **Unauthorized Occupants/Boarders**

A person who is staying in the dwelling unit, but is not listed on the lease, Article III, or approved by the Landlord to dwell in the unit in excess to 14 days.

### **Uniform Federal Accessibility Standards (UFAS) Unit**

A dwelling unit that is designed, constructed, altered or adapted to comply with Uniform Federal Accessibility Standards (UFAS) and is located in an accessible route.

### **Units with Accessible Features**

A unit which has been altered in a manner that has some accessible features that assists persons with disabilities (see also UFAS unit) but is not an UFAS unit.

### **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 by a housing authority 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. (24 CFR 5.603)



### **Utility Reimbursement**

The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (24 CFR 5.603)

### **VAWA**

The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.)

### **Verification Source**

A qualified professional (not necessarily a physician) having knowledge of a person's disability who can verify the person's disability and need for a reasonable accommodation.

### **Very Low-Income Family**

Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

### **Victims of Domestic Violence**

Individuals or families who have been or are being subjected to or victimized by violence by a member of the family or household. MHA will require evidence that the family has been displaced as result of fleeing violence in the home. Individuals and families are also eligible for this preference if there is proof that the individual or family is currently living in a situation where they are being subjected to or victimized by violence in the home. Evidence or proof may include a Protection from Abuse Order, police report, or written verification that the individual or family is living in an emergency shelter because the individual or family has been subjected to or victimized by violence by a member of the family or household. The following criteria are used to establish an individual's or a family's eligibility for this preference:

- Verified actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family or where the family has fled its housing to escape from an abuser.
- The actual or threatened violence must have occurred within the past 30 calendar days or be of a continuing nature.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced because of domestic violence.

The applicant must certify that the abuser will not reside with the applicant unless the Housing Authority gives prior written approval. The Housing Authority will approve the return of the abuser to the household under the following conditions:

- The Housing Authority verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of the recurrence of violent behavior.
- A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the Housing Authority, the Housing Authority will deny or terminate assistance for breach of the certification.

If the family requests it, MHA will try to ensure that the new location of the family is concealed.

### **Violent Criminal Activity**

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. Arrests alone are not sufficient evidence of criminal activity.

### **Waiting List**

The list of applicants who are waiting to be verified eligible for admittance to housing programs administered by MHA.

### **Welfare Assistance**

Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State, or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

45 CFR 260.31 defines the term “assistance” to include cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses). It includes such benefits even when they are:

- Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provided to families who are not employed.

The term “assistance” excludes:

- Nonrecurrent, short-term benefits that:
  - Are designed to deal with a specific crisis situation or episode of need;
  - Are not intended to meet recurrent or ongoing needs; and
  - Will not extend beyond four months.
- Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- Supportive services such as child care and transportation provided to families who are employed;
- Refundable earned income tax credits;
- Contributions to, and distributions from, Individual Development Accounts;
- Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

### **Welfare Rent**

In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

### **Written Notification**

All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

### **Acronyms**

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self Sufficiency (program)
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
MHA	Public Housing Agency
QHWRA	Quality Housing and Work Responsibility Act of 1998
SSA	Social Security Administration
TTP	Total Tenant Payment

# Addendums

## Alterations Policy

It is the sole discretion of the MHA to allow residents to make alterations to their units. Alterations that permanently affect the existing structural layout of the unit including but not limited to the removal or construction of the interior/exterior walls, windows, doors, porches, or patios are strictly prohibited. The resident may make no other alteration or repairs to the unit unless the resident complies with the following requirements:

- Obtains prior written approval from the Property Manager for all alterations;
- Ensures that all work performed conforms to HUD specifications and local code standards and where necessary, performed by a licensed contractor,
- Agrees that all alterations, once installed, become the permanent property of the development
- Accepts responsibility for maintaining alterations in accordance with Housing standards and local code standards;
- Accepts responsibility for any damage to the property because of an alteration.

### Prohibited Alterations but not limited to:

- Fences
- Paneling/wallpaper/adhesive mirrors/wall tile
- Patios or exterior screening
- Interior/exterior construction or renovations
- Floor tiling (i.e., linoleum, vinyl or ceramic)
- Permanently attached wall-to-wall carpeting
- Stoves
- Locks
- Antennas
- Pools
- Animal doors (i.e., dog doors)

### Authorized Alterations with Written Approval from Property Manager or Designee

**Gardens:** Gardens must not detract from the appearance of the property and there may be charges to restore the premises to its original condition.

**Ceiling Fans:** If installed according to specifications provided by the Property Manager or designee and provided there is an existing fixture to accommodate a ceiling fan.

**Cable TV:** Installed by a licensed cable company.

**Window Shades:** Any damage done to the wall shall be repaired prior to move-out to avoid maintenance charges.

**Venetian Blinds, Mini-Blinds and Vertical Blinds:** Any damage done to the wall shall be repaired prior to move-out to avoid maintenance charges.

**Carpeting:** Must not be permanently attached. Carpeting should be taped down. Doors cannot be shortened to accommodate carpeting. All carpeting must be removed, and the floor cleaned prior to move-out.

**Wall Pictures and Decorations:** Residents may hang wall pictures and decorations provided no heavy anchoring nails or screws are used. Adhesive wall mirrors or tiles are prohibited. Decals pasted on the walls, doors, windows, or refrigerators are also prohibited.

**Paint:** The resident may paint the unit a neutral color such color must be approved by the Property manager or designee.

#### **Alterations without Prior Written Approval**

If an alteration has been made without prior written approval from the Property Manager or designee, or if the alteration does not conform to the Housing standards or local codes, the Property Manager or designee will pursue lease enforcement procedures.

### **Authorization of Agency (AOA)**

Memphis Housing Authority (MHA) has the authority to invoke Authorization of Agency also known as “AOA” to promote a safe, secure, peaceful, and tranquil environment at all MHA owned and management developments/and or properties by preventing the participation in or promotion of criminal activity, or any activity (violent or non-violent) that disturbs the residents and employee’s peaceful enjoyment of the premises.

Permanent restriction from all MHA owned and managed properties should be applied when an actual and imminent threat is perceived. If the Resident’s or Employee’s property, safety, or peaceful enjoyment of the premises are believed to be in danger or at risk. At the discretion of the General Counsel or designee all other incidents may receive up to an 18-month restriction/ban from all MHA owned and managed properties.

#### **Authorization of Agency**

Anyone who enters onto MHA property may be placed on the “Authorization of Agency” list if they engage in violent, disruptive, non-violent, or criminal activity while on the premises that disturbs or threatens the property, health, safety, or right to peaceful enjoyment of public housing premises by other residents or employees of MHA. Criminal charges and or disrupting conduct are considered grounds for a non-resident to be placed on MHA's authorization of agency list. Which include but not limited to:

- Causing a disturbance on property such as disorderly conduct as defined by Tenn. Code. Ann. § 39-17-305;
- When visiting MHA’s property for prostitution;
- When visiting MHA’s property knowingly with the intent to manufacture/deliver/sell or possess a controlled substance as defined by Tenn. Code. Ann. §39-17-417;
- When visiting MHA's property and found to have on their person or vehicle drug paraphernalia as defined by Tenn. Code. Ann § 39-17-402
- When visiting MHA’s property and found to have a firearm in their possession without authorization to carry a weapon from the appropriate official agency;
- When visiting MHA’s property and caring a firearm and signs are posted stating firearms are

prohibited;

- When visiting MHA's property and found vandalizing MHA's property, defacing property, breaking into cars, vacant units, and occupying vacant units;
- When driving a vehicle on MHA's property in a reckless manner, parking on the grass, blocking a dumpster parking in fire lanes or other unauthorized parking areas;
- When visiting MHA's property and intentionally harassing MHA residents, employees, agents, contractors, or other governmental officials as defined by Tenn. Code. Ann §39-17- 308;
- When displaying, use or possess any illegal firearms, (operable or inoperable) or other illegal weapons as defined by the laws and courts of the State of Tennessee anywhere on the property of the MHA;
- If soliciting is prohibited on the premises;
- When visiting MHA's property for gambling;
- When on MHA's property and commits the offense of public intoxication as defined by Tenn. Code. Ann § 39-17-310;
- When knowingly commits littering while on MHA's property as defined by Tenn. Code. Ann §39-14-502;
- Knowingly stalking, aggravated stalking, and especially aggravated stalking any resident or employee of the MHA as defined by Tenn. Code. Ann § 39-17-315;
- Knowingly commits theft of property while on MHA's property as defined by Tenn. Code. Ann §39-14-103;
- Knowingly incite a riot while on MHA property as defined by Tenn. Code. Ann § 39- 17-304;
- Knowingly massage or exposure of erogenous areas while on MHA property as defined by Tenn. Code. Ann §39-17-918;
- Intentionally or knowingly engages in cruelty to animals while on MHA's property as defined by Tenn. Code. Ann § 39-14-202
- If a Resident has been removed from the Lease by the Lease Holder/Head of Household;
- If a resident has been evicted from the premises for any lease violation other than non- payment of rent;
- If you are a member of a lifetime sex offender registry.

### **Authorization of Agency Procedures**

MHA Officer's, Property Manager's or local law enforcement officers that encounter a problem with a non-resident as outlined in this policy shall have the MHA to invoke the Authorization of Agency procedures. The following process should be followed:

- The officer shall complete an Authorization of Agency form giving the suspect notice that he or she is not to return to that or any other MHA development. The suspect should be asked to sign the notice form. If the suspect refuses to sign the notice form the officer will sign in the suspect's place, noting the suspect refused to sign the notice.
- The officer shall generate an Offense report with an explanation on why this suspect is being placed on the Authorization of Agency list.
- The officer shall inform the suspect that if they are caught on any of MHA's developments, they will automatically be placed under arrest and charged with criminal trespass.
- Permanent restriction should be applied when a Resident's or employee's safety, or peaceful enjoyment of the premises are in jeopardy. If the AOA restriction is not permanent a specified expiration date up to 18 months will be noted on the form.
- A copy of these documents will be placed on file with MHA's Police Services office staff and a copy

given to the Property Manager or designee.

- If a resident's invited guest(s) is placed on AOA, then the Property Manager or designee will provide the Resident with an AOA Tenant Notification.
- On a regular basis, an alphabetical print-out of the AOA list will be made available for distribution to the local law enforcement. MHA staff will receive an electronic copy.
- MHA will deny admissions to any applicant that is currently on the MHA Authorization of Agency (AOA) list.

### **Grievance and Appeals**

In certain situations, residents and family members can be placed on AOA at multiple MHA developments. If this occurs the resident and/or family members listed on the Lease Agreement have a right to a Grievance Hearing as defined in the Resident Grievance and Appeal Policy.

Non-resident's may challenge their placement on the AOA list by submitting a written request for review. Send request to: MHA Legal Department, 700 Adams Ave., Memphis, TN 38105. MHA General Counsel or designee is authorized to affirm or reverse the decision. A non- resident challenging an AOA restriction, should receive a written explanation of the decision within 10 business days of the review.

## **Firearms, Weapons, Dangerous Objects and Materials Policy**

Residents, members of resident's household and guest are prohibited from displaying, using, or possessing any illegal firearm (operable or inoperable) or other illegal weapons as defined by laws and courts of the State of Tennessee anywhere on the MHA properties.

### **Prohibited Firearms, Weapons, Dangerous Objects and Materials**

- Shotguns, short-barrel rifles, machine guns, etc.
- Pellet guns, B.B. guns, air guns of any type
- Archery equipment (bows, arrows, targets, etc.);
- Knuckles;
- Firearm silencers;
- All types of sling shots or any device that could shoot a deadly projectile;
- All sharp edged or pointed objects (i.e. switchblade, sword, knife with blades exceeding 4 inches etc.) used with the intent to threaten, intimidate, or harm another. All types of explosives, fireworks, explosive chemical(s);
- All types of explosives, fireworks, explosive chemical(s);
- Hoax device;
- Any other type of instrument, object and/or material that may be deemed a weapon and or dangerous when used with the intent to threaten, intimidate, cause death or harm another that has no common lawful purpose.

### **Residents, member of resident's household and their invited guest shall NOT**

- Discharge or use any firearm or other weapon on MHA's property except when in accordance with Federal, State and local laws;
- Display or carry a firearm or weapon in any common area, except where the firearm or Weapon is

being transported to or from the resident's unit or vehicle;

- Allow, give or transfer to a Juvenile (any person less than eighteen years of age) a firearm, B.B. gun, air gun or spear gun while on MHA property;
- Enter MHA's Property management office or Central Office possessing any firearms or illegal weapons as defined by Tennessee State Law;
- Possess a handgun while under the influence of alcohol or any controlled substance while on MHA property.

**Residents, member of resident's household and their invited guest SHALL**

- Exercise reasonable care in the storage of loaded or unloaded firearms and ammunition.
- When there is reasonable cause to believe this policy has been violated, have available for inspection a copy of any permit, license, or other documentation required by Federal, State, or local laws for ownership, possession, or transportation of firearms or other weapons, including a license to carry a concealed weapon.

## **Small Scale, In-Home Business Policy**

To allow home-based businesses yet preserve the livability and peaceful atmosphere of its developments, MHA shall require any family member who is listed on the lease and desires to initiate a small-scale in-home business to seek written permission from the Property Manager or designee to start a Home-based Business form before undertaking the business venture.

### **Requirements**

MHA will not consider business activity to occur in the dwelling unit until ALL conditions are met. Generally Acceptable home-based businesses include but not limited to:

- Childcare (must follow state and local requirements)
- Sewing and clothes alterations
- Arts and Craft
- Book-Keeping, tax preparation etc.
- Word processing secretarial work
- Cosmetics/hairdressing
- Telephone sales/ telemarketing
- House cleaning services
- Specialty cooking and catering
- Small appliance repairs

### **Deciding Factors**

In deciding whether to approve a resident's request to operate a small-scale, in- home business, MHA will consider the following factors

- The amount of traffic (pedestrian and vehicular) the business will generate;
- Whether the traffic will create problems with neighbors and the extent of the problems;
- The potential strain of such traffic on the building, grounds, roads or parking area, and environment (e.g., garbage generated, dumping of waste materials);
- The extent of any noise the business will generate;



- The degree to which the traffic and noise will disturb the normal atmosphere of the neighborhood;
- The location of the dwelling where the business will be conducted;
- The number of dwellings affected by possible adverse effects;
- The type and size of any equipment necessary for the business;
- The usage of utilities and who pays for any creased usage;
- Potential liabilities requiring insurance coverage; and
- The resident has no current or unresolved lease violation notices;
- The safety of the residents.

### **Income**

Net income (i.e., income less any expenses incurred by the business) received from the operation of a resident-owned business are considered earnings and may be included in the calculation of annual income during annual reexamination according to federal regulations.

## **Solicitations Policy**

Without written permission from the Division Director or designee solicitation/distributions of any Materials is prohibited on our properties. Violators of this policy will be required to leave the premises and be subject to trespassing charges. Resident's that violate this policy may receive a warning, fine and/or lease termination.

Door-to-door solicitation for the sale of goods and services is prohibited.

### **Political Activities**

- Door-to-Door canvassing, campaigning, or distribution of campaigning materials for an elected official or candidate is permissible in a development that is not secured;
- Elected officials, political organizations, and declared candidates and their representatives must request authorization in writing from the Division Director or designee to hold an event in a community space. Community space is a room designated for community usage, which may not be available in every community development community development.
- The request for authorization to hold the activity must include date, time, approximate duration, and names of participants. The MHA reserves the right to request additional information;
- In lieu of approving a campaigning event for individual candidates, the MHA may designate a time and date where political candidates can address the residents of a development or group several requests into one event. If the activity is held during non-business hours, the requestor(s) must agree to bear the cost of any expense incurred by the MHA.

## **APPENDIX**

### **Bed Bug Brochure and Extermination Checklist**



*"Striving For Excellence and Nothing Less"*

## **MEMPHIS HOUSING AUTHORITY**

MHA Central Office 700 Adams Avenue Memphis, Tennessee 38105 (901) 544-1100 (Phone)

(901) 544-1218 (Fax) [www.MemphisHA.org](http://www.MemphisHA.org)

# **BED BUG CONTROL & INFORMATIONAL BROCHURE**



**What are bedbugs?**

Bedbugs are small, brownish, flattened insects that feed solely on blood. Adult bedbugs are about 3/16-inch long and reddish-brown, with oval, flattened bodies. They are sometimes mistaken for ticks or cockroaches. They cannot jump or fly. However, bedbugs are skilled climbers. Some studies show that they climb great heights in order to drop themselves down to lower surfaces that were otherwise inaccessible to them.

**What are the habits of bedbugs?**

Bedbugs are active mainly at night and prefer to hide close to where they feed. They can crawl several feet to obtain a blood meal. Bedbugs hide during the day in dark, protected sites. They prefer fabric, wood, and paper surfaces. Bedbugs often crawl upward to hide in pictures, wall hangings, drapery pleats, loosened wallpaper, cracks in plaster, and ceiling molding during the day. Bedbugs initially can be found about tufts, seams, and folds of mattresses, later spreading to crevices in the bedstead or throughout the bedroom. In heavier infestations, they also may occupy hiding places farther from the bed.

**How do I know if I have bedbugs?**

A bedbug infestation can be recognized by blood stains from crushed bugs or by rusty (sometimes dark) spots of excrement on sheets and mattresses, bed clothes, and walls. Fecal spots, eggshells, and shed skins may be found in the surrounding area of their hiding places. An offensive, sweet, musty odor from their scent glands may be detected when bedbug infestations are severe. You may or may not have signs of bites on your body.

**Can bedbugs carry diseases?**

The Center for Disease Control and Prevention reports that bedbugs can NOT give humans a disease. People may have an allergic reaction to the bite.

**What do I need to do if I think I have bedbugs in the unit?**

Contact Your Property Management Office at your development set up an inspection. **DO NOT** try to eliminate the problem alone or without our assistance. It is a very serious matter and a licensed pest control provider needs to conduct an extermination.

**Has the pest control person been trained to treat for bedbugs?**

Yes, the pest control person is trained and will work with Property Management and you to make certain that all pests are removed from the unit.

## **What can I do to make sure I do not get bedbugs in the unit?**

1. **Do Not** pick up mattresses or other furniture from the side of the road, other apartments or from dump sites.
2. If you purchase or rent used furniture or mattresses, inspect them carefully for signs of bedbugs.
3. Inspect and wash in hot soapy water clothing purchased from consignment stores or second hand stores.
4. Because we know that bedbugs are an increasing problem, it is important and necessary to inspect any location away from home where you are planning to sleep.
5. Take steps to try to avoid picking up bedbugs from hotels, motels or any other sources when you or your family members travel, even to local destinations.
6. Consider purchasing a special mattress cover (encasement) for you beds. Rather than purchasing a cover placed on top of the mattress, purchase one that actually zips around it entirely and seals up the inside meaning no bugs are getting in or out. Periodically check for rips or openings. If ripped or openings we suggest replacing the covering.
7. If you believe your mattress is infested you should consider throwing it away. **Take it to the dumpster or call the Property Management Office to have it removed.**
8. It is much easier to control the problem when the infestation is small. Keep clutter down, so it is easier to inspect and bed bugs have fewer hiding places.
9. Wash your bedding, including pillows and comforters weekly and dry them on high for at least 20 minutes.
10. Bedbugs can come in with a guest, latching on to luggage and clothes. Take extra caution when you have guest spend the night at the unit.
11. Remove old furniture that is not used.
12. Vacuum furniture, bed frames, and floors weekly and cracks and crevices. Use a vacuum tool to clean the baseboards in the unit. Empty the vacuum or seal and dispose of its bag outside of your home after each use.
13. Wash and inspect your children's book bags and jackets weekly.

**Note: If you have a problem with pest in your unit, contact Your Property Management Office.**

### **What do I need to do if I believe I have bedbugs in the unit?**

Don't panic. Contact the Property Management Office as soon as possible and we will schedule an inspection with a qualified pest control provider.

Do not have guest come spend the night. Once the guest returns home, they could unknowingly carry bedbugs from your apartment and infest their homes. Once the inspection is complete, the Property Manager will notify you of the results.

### **If it is determined that I have bedbugs in the unit, what will I have to do?**

The Property Management Office will schedule an appointment for treatment as soon as possible. Generally, within 3 to 5 business days.

You will be given a "Bedbug Preparation Checklist" which will instruct you on how to prepare for the treatment. You will be asked to certify that you have completed the tenant responsibilities on the checklist.

On the day of the treatment, you need to make sure that all bedding is removed from the bed, all curtains removed from the windows and washed/dried the day of the treatment. If this is not done, you could very well infest the unit again.

If you do not have a washer and dryer in the unit take your belongings to a laundromat. Place them in a sealed plastic bag as you travel to the laundromat. If you fail to place them in plastic bag, you could infest your automobile.

You will need to be present when the pest control provider arrives at the unit. However, after they give you additional instructions, you and your family members will need to leave the apartment during the treatment process.

Generally, you will be able to return home within 4 hours.

Once the treatment is completed, continue to monitor the bed and apartment for signs that bedbugs are still present.

**Do not** use any other types of insecticides (Raid or Powder) after treatment has been completed.

**Remember! Getting rid of bedbugs is a team effort! It will require your cooperation and you will be required to assist us and the pest control provider in eliminating them from your home.**

## **What type of insecticide will be used during treatment?**

The treatment **MUST** be very aggressive to eliminate bedbugs. Every precaution for your safety will be taken.

**Only a licensed pest control provider will treat your unit.**

The pest control provider will use **bedbug labeled Insecticide**. It is an aerosol and will be used throughout the unit. Insecticides may be applied as liquids directly to cracks, crevices, bed frames, baseboards, or similar sites or they may apply as dusts in cracks and crevices. The most effective bedbug pesticides are available to commercial pesticide applicators only. Professionals also have the equipment and expertise that allow a more effective application of insecticides than residents could do themselves.

The pest control provider may also place “monitors” around the furniture depending on the infestation and/or the condition of the unit. The “monitors” do not have an active ingredient considered to be a pesticide or insecticide and are not harmful. They will be placed throughout the unit to assist us in determining if you have any bedbug activity (movement/traveling) after the treatment. Do not move or remove the “monitors” while they are present in your unit. They will be placed in areas that we suspect may have been traveling paths for bedbugs.

**Insecticides alone won't control bedbug infestations. Your cooperation and following the directions on the “Bedbug Preparation Checklist” is required for the treatment to work. Please remember, you MUST NOT hinder the treatment of the unit. Your cooperation is essential. If you do not cooperate and/ or do not complete the checklist we will be forced to issue a Demand for Possession and your lease may be terminated.**

**Bedbugs are a serious issue and can very easily infest the development.**

**Please do your part!**

## BEDBUG EXTERMINATION CHECKLIST

Memphis Housing Authority has a licensed pest control exterminator to exterminate the bedbugs from your unit. However, the success of this process depends on you and your family's complete cooperation. Below is a list of responsibilities that **MUST** be completed before the pest control exterminator can begin the extermination process. Failure to cooperate or complete **ALL** of the items below may result in the termination of your lease.

**Your unit is scheduled to be treated on the date below. The checklist must be completed by that date! If there is some reason that you can't have the checklist completed by the below date, please notify the site management office immediately.**

HOH must Initial upon completion	ITEMS TO BE COMPLETED BY THE RESIDENT
	Strip the bed(s) and launder all sheets, pillowcases, mattress pads, and blanket.
	Remove everything from bedroom closet(s) and place in sealed plastic bags.
	Remove everything from dresser drawers, nightstands, and dressing tables and Place in plastics bags
	Have all clothing and fabrics laundered, dry cleaned, or replaced.
	Remove drapes and have them laundered, dry-cleaned or replaced
	Discard cardboard boxes, shoeboxes, paper and plastic bags, old newspapers, Stacks of magazines, and similar items in the infested rooms.
	Vacuum all infested rooms. Also vacuum mattress, bedsprings, couches, chairs Closets and closets shelves, shoes, inside dresser drawers, and bedside table drawers. Vacuum bags are to be placed in a plastic bag and discarded.
	Aquariums should have the air pump disconnected and the top covered by a damp towel. Salt water tanks may need to be removed from the premises as the air pump cannot be disconnected. Remove all pets



## **IMPORTANT NOTES:**

- Discarding of any compromised (ripped/torn) materials or heavily infested items may be required.
- Dismantling of bed frames and other items will be performed as part of the service program
- Should the box spring remain, removal of the cheesecloth underside is required for proper inspection and/or application.
- Zippered mattress bags may be used. It is the resident's responsibility to purchase these items.
- Mattress can be used (back on the bed frame) but must remain in the bags for at least thirty days. Linens are to go over the bags.
- If laundering, a hot water detergent cycle and dryer MUST be used.
- A clutter free environment must be provided in order to allow access for the service technician to treat all of the needed areas.
- Before removing all bagged items, the resident should inspect property for pest activity.
- The resident should not touch or move any monitoring device
- Insecticide treatments MUST NOT be performed by the resident
- After treatment of your unit, 1) stay out of the unit 2-4 hours to allow treatments to dry. 2) frequent changing of bedding and sweeping/vacuuming will help control possible future infestations. Following these steps is essential to ensure the complete control of any bed bug infestation. It may take four weeks or longer to gain effective control of bed bugs; so your patience and help are greatly appreciated.

Your unit will be treated for bed bugs on: \_\_\_\_\_ at \_\_\_\_\_  
AM/PM.

By my signature below, I certify that I have read, understood, and have fully completed the above checklist. Failure to fully cooperate may result in a lease termination.

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

Technician Signature after  
completion: \_\_\_\_\_

Time of completion: \_\_\_\_:\_\_\_\_ AM/PM

## Civil Rights Law

## CIVIL RIGHTS LAWS

Civil rights laws protect the rights of applicants and residents to equal treatment by MHA in operating its programs. It is the policy of MHA to comply with all Civil Rights laws now in effect and subsequently enacted, including but not limited to:

*a. Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex; 24 CFR § 1 and 100 which states:*

### *1.1 Purpose.*

*The purpose of this part 1 is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the Act) to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development.*

### *§1.2 Definitions.*

*As used in this part 1:*

*(a) The term Department means the Department of Housing and Urban Development.*

*(b) The term Secretary means the Secretary of Housing and Urban Development.*

*(c) The term responsible Department official means the Secretary or, to the extent of any delegation of authority by the Secretary to act under this part 1, any other Department official to whom the Secretary may hereafter delegate such authority.*

*(d) The term United States means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term State means any one of the foregoing.*

*(e) The term Federal financial assistance includes: (1) Grants, loans, and advances of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. The term Federal financial assistance does not include a contract of insurance or guaranty.*

*(f) The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended,*

*directly or through another recipient, for any program or activity, or who otherwise participates in carrying out such program or activity (such as a redeveloper in the Urban Renewal Program), including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program or activity.*

*(g) The term applicant means one who submits an application, contract, request, or plan requiring Department approval as a condition to eligibility for Federal financial assistance, and the term application means such an application, contract, request, or plan.*

### *§1.3 Application of part 1.*

*This part 1 applies to any program or activity for which Federal financial assistance is authorized under a law administered by the Department. It applies to money paid, property transferred, or other Federal financial assistance extended to any such program or activity on or after January 3, 1965. This part 1 does not apply to: (a) Any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended to any such program or activity before January 3, 1965, (c) any assistance to any person who is the ultimate beneficiary under any such program or activity, or (d) any employment practice, under any such program or activity, of any employer, employment agency, or labor organization, except to the extent described in §1.4C.*

### *§1.4 Discrimination prohibited.*

**General.** *No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity to which this part 1 applies.*

#### ***(b) Specific discriminatory actions prohibited.***

*(1) A recipient under any program or activity to which this part 1 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:*

*(i) Deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;*

*(ii) Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program or activity;*

*(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;*

*(iv) Restrict a person in any way in access to such housing, accommodations, facilities, services, financial aid, or other benefits, or in the enjoyment of any advantage or privilege enjoyed by others in connection with such housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;*

(v) *Treat a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;*

(vi) *Deny a person opportunity to participate in the program or activity through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program or activity (including the opportunity to participate in the program or activity as an employee but only to the extent set forth in paragraph (c) of this section).*

(vii) *Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.*

(i) *A recipient, in determining the types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of persons to whom, or the situations in which, such housing, accommodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect to persons of a particular race, color, or national origin.*

(ii) *A recipient, in operating low-rent housing with Federal financial assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1401 et seq.), shall assign eligible applicants to dwelling units in accordance with a plan, duly adopted by the recipient and approved by the responsible Department official, providing for assignment on a community-wide basis in sequence based upon the date and time the application is received, the size or type of unit suitable, and factors affecting preference or priority established by the recipient's regulations, which are not inconsistent with the objectives of title VI of the Civil Rights Act of 1964 and this part 1. The plan may allow an applicant to refuse a tendered vacancy for good cause without losing his standing on the list but shall limit the number of refusals without cause as prescribed by the responsible Department official.*

(iii) *The responsible Department official is authorized to prescribe and promulgate plans, exceptions, procedures, and requirements for the assignment and reassignment of eligible applicants and tenants consistent with the purpose of paragraph (b)(2)(ii) of this section, this part 1, and title VI of the Civil Rights Act of 1964, in order to effectuate and insure compliance with the requirements imposed thereunder.*

(3) *In determining the site or location of housing, accommodations, or facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part 1 applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part 1.*

(4) *As used in this part 1 the housing, accommodations, facilities, services, financial aid, or other benefits provided under a program or activity receiving Federal financial assistance shall be deemed*

*to include any housing, accommodations, facilities, services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance.*

*(iii) The responsible Department official is authorized to prescribe and promulgate plans, exceptions, procedures, and requirements for the assignment and reassignment of eligible applicants and tenants consistent with the purpose of paragraph (b)(2)(ii) of this section, this part 1, and title VI of the Civil Rights Act of 1964, in order to effectuate and ensure compliance with the requirements imposed thereunder.*

*(3) In determining the site or location of housing, accommodations, or facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part 1 applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part 1.*

*(4) As used in this part 1 the housing, accommodations, facilities, services, financial aid, or other benefits provided under a program or activity receiving Federal financial assistance shall be deemed to include any housing, accommodations, facilities, services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance.*

*(5) The enumeration of specific forms of prohibited discrimination in paragraphs (b) and (a) of this section does not limit the generality of the prohibition in paragraph (a) of this section.*

*(6)(i) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.*

*(ii) Even in the absence of such prior discrimination, a recipient in administering a program should take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.*

*Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part 1 applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.*

*(c) Employment practices. (1) Where a primary objective of the Federal financial assistance to a program or activity to which this part 1 applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program or activity (including recruitment or recruitment advertising, employment, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation and use of facilities). The requirements applicable to construction employment under such program or activity shall be those specified in or pursuant to part III of Executive Order 11246 or any executive order which*

*supersedes or amends it.*

(2) *Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this part 1 tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part 1 applies, the provisions of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to this part 1 to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.*

#### *§1.5 Assurances required.*

(a) *General. (1) Every contract for Federal financial assistance to carry out a program or activity to which this part 1 applies, executed on or after January 3, 1965, and every application for such Federal financial assistance submitted on or after January 3, 1965, shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to such contract or application, contain or be accompanied by an assurance that the program or activity will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1. In the case of a contract or application where the Federal financial assistance is to provide or is in the form of personal property or real property or interest therein or structures thereon, the assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the contract or application. The responsible Department official shall specify the form of the foregoing assurance for such program or activity, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.*

(2) *In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of Federal financial assistance the instrument effecting any disposition by the recipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case where Federal financial assistance is provided in the form of a transfer of real property or interests therein from the Federal Government, the instrument effecting or recording the transfer shall contain such a covenant.*

(3) *In program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the*

*nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.*

*(a) Preexisting contracts—funds not disbursed. In any case where a contract for Federal financial assistance, to carry out a program or activity to which this part 1 applies, has been executed prior to January 3, 1965, and the funds have not been fully disbursed by the Department, the responsible Department official shall, where necessary to effectuate the purposes of this part 1, require an assurance similar to that provided in paragraph (a) of this section as a condition to the disbursement of further funds.*

*(b) Preexisting contracts—periodic payments. In any case where a contract for Federal financial assistance, to carry out a program or activity to which this part 1 applies, has been executed prior to January 3, 1965, and provides for periodic payments for the continuation of the program or activity, the recipient shall, in connection with the first application for such periodic payments on or after January 3, 1965: (1) Submit a statement that the program or activity is being conducted in compliance with all requirements imposed by or pursuant to this part 1 and (2) provide such methods of administration for the program or activity as are found by the responsible Department official to give reasonable assurance that the recipient will comply with all requirements imposed by or pursuant to this part 1.*

#### *§1.6 Compliance information.*

*(a) Cooperation and assistance. The responsible Department official and each Department official who by law or delegation has the principal responsibility within the Department for the administration of any law extending financial assistance subject to this part 1 shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part 1 and shall provide assistance and guidance to recipients to help them comply voluntarily with this part 1.*

*(b) Compliance reports. Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part 1. In general, recipients should have available for the department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs.*

*(c) Access to sources of information. Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part 1. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person shall fail or refuse to furnish this information, the recipient shall so certify its report and shall set forth what efforts it has made to obtain the information.*

*(d) Information to beneficiaries and participants. Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the*



*provisions of this part 1 and its applicability to the program or activity under which the recipient receives Federal financial assistance and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part 1.*

#### *§1.7 Conduct of investigations.*

*(a) Periodic compliance reviews. The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part 1.*

*(b) Complaints. Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part 1 may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.*

*(c) Investigations. The responsible Department official or his designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part 1. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part 1 occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part .*

*(d) Resolution of matters. (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part 1, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in §1.8.*

*(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.*

*(e) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Act or this part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.*

#### *§1.8 Procedure for effecting compliance.*

*(a) General. If there appears to be a failure or threatened failure to comply with this part 1, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part 1 may be affected by the suspension or termination of or refusal to*

*grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.*

*(b) Noncompliance with §1.5. If an applicant fails or refuses to furnish an assurance required under §1.5 or otherwise fails or refuses to comply with the requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to January 3, 1965.*

*(c) Termination of or refusal to grant or to continue Federal financial assistance. No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part 1, (3) the action has been approved by the Secretary, and (4) the expiration of 30 days after the Secretary has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.*

*(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient to comply with this part 1 and to take such corrective action as may be appropriate.*

#### *§1.9 Hearings.*

*(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by §1.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:*

*(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for*

hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph (a) or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and §1.8(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Hearing procedures.* Hearings shall be conducted in accordance with 24 CFR part 180.

*§1.10 Effect on other regulations; forms and instructions.*

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against persons on the ground of race, color, or national origin under any program or activity to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant or recipient for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to January 3, 1965. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof):

(1) *Executive Orders 11246 and 11375 and regulations issued thereunder, or*

(2) *Executive Order 11063 and regulations issued thereunder, or any other order, regulations or instructions, insofar as such order, regulations, or instructions, prohibit discrimination on the ground of race, color, or national origin in any program or activity or situation to which this part is inapplicable, or prohibit discrimination on any other ground.*

(b) *Forms and instructions.* The responsible Department official shall assure that forms and detailed instructions and procedures for effectuating this part are issued and promptly made available to interested persons.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for the final decision as provided in §1.10), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI and this part to similar programs or activities and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

*part 100 states:*  
*Subpart A—General*

*§100.1 Authority.*

*This regulation is issued under the authority of the Secretary of Housing and Urban Development to administer and enforce title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the Fair Housing Act).*

*§100.5 Scope.*

*(a) It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. No person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions.*

*(b) This part provides the Department's interpretation of the coverage of the Fair Housing Act regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, and the availability of residential real estate-related transactions. The illustrations of unlawful housing discrimination in this part may be established by a practice's discriminatory effect, even if not motivated by discriminatory intent, and defenses and rebuttals to allegations of unlawful discriminatory effect may be made, consistent with the standards outlined in §100.500. Guidance documents and other administrative actions and documents issued by HUD shall be consistent with the standards outlined in §100.500.*

*(c) Nothing in this part relieves persons participating in a Federal or Federally assisted program or activity from other requirements applicable to buildings and dwellings.*

*(d) Nothing in this part requires or encourages the collection of data with respect to race, color, religion, sex, handicap, familial status, or national origin.*

*§100.7 Liability for discriminatory housing practices.*

*(a) Direct liability. (1) A person is directly liable for:*

*(i) The person's own conduct that results in a discriminatory housing practice.*

*(ii) Failing to take prompt action to correct and end a discriminatory housing practice by that person's employee or agent, where the person knew or should have known of the discriminatory conduct.*

*(iii) Failing to take prompt action to correct and end a discriminatory housing practice by a third-party, where the person knew or should have known of the discriminatory conduct and had the power to correct it. The power to take prompt action to correct and end a discriminatory housing practice by a third-party depends upon the extent of the person's control*

*or any other legal responsibility the person may have with respect to the conduct of such third-party.*

*(2) For purposes of determining liability under paragraphs (a)(1)(ii) and (iii) of this section, prompt action to correct and end the discriminatory housing practice may not include any action that penalizes or harms the aggrieved person, such as eviction of the aggrieved person.*

*(a) Vicarious liability. A person is vicariously liable for a discriminatory housing practice by the person's agent or employee, regardless of whether the person knew or should have known of the conduct that resulted in a discriminatory housing practice, consistent with agency law.*

#### *§100.10 Exemptions.*

*(a) This part does not:*

*(1) Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted because of race, color, or national origin;*

*(2) Prohibit a private club, not in fact open to the public, which, incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.*

*(3) Limit the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling; or*

*(4) Prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).*

*(b) Nothing in this part regarding discrimination based on familial status applies with respect to housing for older persons as defined in subpart E of this part.*

*(c) Nothing in this part, other than the prohibitions against discriminatory advertising, applies to:*

*(1) The sale or rental of any single-family house by an owner, provided the following conditions are met:*

*(i) The owner does not own or have any interest in more than three single family houses at any one time.*

(ii) *The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this paragraph (c)(1) of this section applies to only one such sale in any 24-month period.*

(2) *Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.*

#### *§100.20 Definitions.*

*The terms Department, Fair Housing Act, and Secretary are defined in 24 CFR part 5. Aggrieved person includes any person who—*

(a) *Claims to have been injured by a discriminatory housing practice; or*

(b) *Believes that such person will be injured by a discriminatory housing practice that is about to occur.*

*Broker or Agent includes any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.*

*Discriminatory housing practice means an act that is unlawful under section 804, 805, 806, or 818 of the Fair Housing Act.*

*Dwelling means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.*

*Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with—*

(a) *A parent or another person having legal custody of such individual or individuals; or*

(b) *The designee of such parent or other person having such custody, with the written permission of such parent or other person.*

*The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.*

*Handicap is defined in §100.201.*

*Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 U.S.C., receivers, and fiduciaries.*

*Person in the business of selling or renting dwellings means any person who:*

- (a) Within the preceding twelve months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein.*
- (b) Within the preceding twelve months, has participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or*
- (c) Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.*

*State means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.*

#### *Subpart B—Discriminatory Housing Practices*

##### *§100.50 Real estate practices prohibited.*

*(a) This subpart provides the Department's interpretation of conduct that is unlawful housing discrimination under section 804 and section 806 of the Fair Housing Act. In general, the prohibited actions are set forth under sections of this subpart which are most applicable to the discriminatory conduct described. However, an action illustrated in one section can constitute a violation under sections in the subpart. For example, the conduct described in §100.60(b)(3) and (4) would constitute a violation of §100.65(a) as well as §100.60(a).*

*(b) It shall be unlawful to:*

- (1) Refuse to sell or rent a dwelling after a bona fide offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of race, color, religion, sex, familial status, or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.*
- (2) Discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, handicap, familial status, or national origin.*
- (3) Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin.*

- (4) *Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.*
- (5) *Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that a dwelling is not available for sale or rental when such dwelling is in fact available.*
- (6) *Engage in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin.*
- (7) *Deny access to or membership or participation in, or to discriminate against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions or membership or participation, because of race, color, religion, sex, handicap, familial status, or national origin.*
- (c) *The application of the Fair Housing Act with respect to persons with handicaps is discussed in subpart D of this part.*

*§100.60 Unlawful refusal to sell or rent or to negotiate for the sale or rental.*

- (a) *It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of race, color, religion, sex, familial status, or national origin or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status, or national origin, or to discriminate against any person in the sale or rental of a dwelling because of handicap.*
- (b) *Prohibited actions under this section include, but are not limited to:*
  - (1) *Failing to accept or consider a bona fide offer because of race, color, religion, sex, handicap, familial status, or national origin.*
  - (2) *Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, handicap, familial status, or national origin.*
  - (3) *Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, handicap, familial status, or national origin.*
  - (4) *Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion, sex, handicap, familial status, or national origin.*



(5) *Evicting tenants because of their race, color, religion, sex, handicap, familial status, or national origin or because of the race, color, religion, sex, handicap, familial status, or national origin of a tenant's guest.*

(6) *Conditioning the availability of a dwelling, including the price, qualification criteria, or standards or procedures for securing the dwelling, on a person's response to harassment because of race, color, religion, sex, handicap, familial status, or national origin.*

(7) *Subjecting a person to harassment because of race, color, religion, sex, handicap, familial status, or national origin that causes the person to vacate a dwelling or abandon efforts to secure the dwelling.*

*§100.65 Discrimination in terms, conditions and privileges and in services and facilities.*

(a) *It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.*

(b) *Prohibited actions under this section include, but are not limited to:*

(1) *Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, handicap, familial status, or national origin.*

(2) *Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status, or national origin.*

(3) *Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, handicap, familial status, or national origin.*

(4) *Limiting the use of privileges, services or facilities associated with a dwelling because of race, color, religion, sex, handicap, familial status, or national origin of an owner, tenant or a person associated with him or her.*

(5) *Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.*

(6) *Conditioning the terms, conditions, or privileges relating to the sale or rental of a dwelling or denying or limiting the services or facilities in connection therewith, on a person's response to harassment because of race, color, religion, sex, handicap, familial status, or national origin.*

(7) *Subjecting a person to harassment because of race, color, religion, sex, handicap, familial status, or national origin that has the effect of imposing different terms, conditions, or privileges relating to the sale or rental of a dwelling or denying or limiting services or facilities in connection with the sale or rental of a dwelling.*

*§100.70 Other prohibited sale and rental conduct.*

(a) *It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.*

(b) *It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons.*

(c) *Prohibited actions under paragraph (a) of this section, which are generally referred to as unlawful steering practices, include, but are not limited to:*

(1) *Discouraging any person from inspecting, purchasing or renting a dwelling because of race, color, religion, sex, handicap, familial status, or national origin, or because of the race, color, religion, sex, handicap, familial status, or national origin of persons in a community, neighborhood or development.*

(2) *Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, handicap, familial status, or national origin, by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.*

(3) *Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, handicap, familial status, or national origin.*

(4) *Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of race, color, religion, sex, handicap, familial status, or national origin.*

(d) *Prohibited activities relating to dwellings under paragraph (b) of this section include, but are not limited to:*

(1) *Discharging or taking other adverse action against an employee, broker or agent because he or she refused to participate in a discriminatory housing practice.*

(2) *Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion,*

*sex, handicap, familial status, or national origin, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, handicap, familial status, or national origin.*

*(3) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, handicap, familial status, or national origin.*

*(4) Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status, or national origin.*

*(5) Enacting or implementing land-use rules, ordinances, procedures, building codes, permitting rules, policies, or requirements that restrict or deny housing opportunities or otherwise make unavailable or deny dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin.*

#### *§100.75 Discriminatory advertisements, statements and notices.*

*(a) It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.*

*(b) The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.*

*(c) Discriminatory notices, statements and advertisements include, but are not limited to:*

*(1) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, or national origin.*

*(2) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, or national origin of such persons.*

*(3) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status, or national origin.*

*(4) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, or national origin.*

*(d) 24 CFR part 109 provides information to assist persons to advertise dwellings in a nondiscriminatory manner and describes the matters the Department will review in evaluating compliance with the Fair Housing Act and in investigating complaints alleging discriminatory housing practices involving advertising.*

*§100.80 Discriminatory representations on the availability of dwellings.*

*(a) It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to provide inaccurate or untrue information about the availability of dwellings for sale or rental.*

*(b) Prohibited actions under this section include, but are not limited to:*

*(1) Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented, because of race, color, religion, sex, handicap, familial status, or national origin.*

*(2) Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin preclude the sale or rental of a dwelling to a person.*

*(3) Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin.*

*(4) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, handicap, familial status, or national origin.*

*(5) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, handicap, familial status, or national origin.*

*(6) Representing to an applicant that a unit is unavailable because of the applicant's response to a request for a sexual favor or other harassment because of race, color, religion, sex, handicap, familial status, or national origin.*

*§100.85 Blockbusting.*

*(a) It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, or national origin or with a handicap.*

*(b) In establishing a discriminatory housing practice under this section, it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.*

*(c) Prohibited actions under this section include, but are not limited to:*

*(1) Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.*

*(2) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status, or national origin, or with handicaps, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.*

*§100.90 Discrimination in the provision of brokerage services.*

*(a) It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, handicap, familial status, or national origin.*

*(b) Prohibited actions under this section include, but are not limited to:*

*(1) Setting different fees for access to or membership in a multiple listing service because of race, color, religion, sex, handicap, familial status, or national origin.*

*(2) Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sex, handicap, familial status, or national origin.*

*(3) Imposing different standards or criteria for membership in a real estate sales or rental organization because of race, color, religion, sex, handicap, familial status, or national origin.*

*(4) Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, handicap, familial status, or national origin.*

*(5) Conditioning access to brokerage services on a person's response to harassment because of race, color, religion, sex, handicap, familial status, or national origin.*

(6) *Subjecting a person to harassment because of race, color, religion, sex, handicap, familial status, or national origin that has the effect of discouraging or denying access to brokerage services.*

*Subpart C—Discrimination in Residential Real Estate-Related Transactions*

*§100.110 Discriminatory practices in residential real estate-related transactions.*

(a) *This subpart provides the Department's interpretation of the conduct that is unlawful housing discrimination under section 805 of the Fair Housing Act.*

(b) *It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.*

*§100.115 Residential real estate-related transactions. The term residential real estate-related transactions mean:(a)The making or purchasing of loans or providing other financial assistance—*

(1) *For purchasing, constructing, improving, repairing or maintaining a dwelling; or*

(2) *Secured by residential real estate; or*

(b) *The selling, brokering or appraising of residential real property.*

*§100.120 Discrimination in the making of loans and in the provision of other financial assistance.*

(a) *It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, handicap, familial status, or national origin.*

(b) *Practices prohibited under this section in connection with a residential real estate-related transaction include, but are not limited to:*

(1) *Failing or refusing to provide to any person information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information, which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, or national origin.*

(2) *Providing, failing to provide, or discouraging the receipt of loans or other financial assistance in a manner that discriminates in their denial rate or otherwise discriminates in*

*their availability because of race, color, religion, sex, handicap, familial status, or national origin.*

*(3) Conditioning the availability of a loan or other financial assistance on a person's response to harassment because of race, color, religion, sex, handicap, familial status, or national origin.*

*(4) Subjecting a person to harassment because of race, color, religion, sex, handicap, familial status, or national origin that affects the availability of a loan or other financial assistance.*

#### *Subpart D—Prohibition Against Discrimination Because of Handicap*

##### *§100.200 Purpose.*

*The purpose of this subpart is to effectuate sections 6 (a) and (b) and 15 of the Fair Housing Amendments Act of 1988.*

##### *§100.201 Definitions.*

*As used in this subpart: Accessible, when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase "readily accessible to and usable by" is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ICC/ANSI A117.1-2003 (incorporated by reference at §100.201a), ICC/ANSI A117.1-1998 (incorporated by reference at §100.201a), CABO/ANSI A117.1-1992 (incorporated by reference at §100.201a), ANSI A117.1-1986 (incorporated by reference at §100.201a), or a comparable standard is deemed "accessible" within the meaning of this paragraph.*

*Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. A route that complies with the appropriate requirements of ICC/ANSI A117.1-2003 (incorporated by reference at §100.201a), ICC/ANSI A117.1-1998 (incorporated by reference at §100.201a), CABO/ANSI A117.1-1992, ANSI A117.1-1986 (incorporated by reference at §100.201a), or a comparable standard is an "accessible route."*

*Building means a structure, facility or portion thereof that contains or serves one or more dwelling units.*

*Building entrance on an accessible route means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance*

*that complies with ICC/ANSI A117.1-2003 (incorporated by reference at §100.201a), ICC/ANSI A117.1-1998 (incorporated by reference at §100.201a), CABO/ANSI A117.1- 1992 (incorporated by reference at §100.201a), ANSI A117.1-1986 (incorporated by reference at §100.201a), or a comparable standard complies with the requirements of this paragraph.*

*Common use areas mean rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.*

*Controlled substance means any drug or other substance, or immediate precursor included in the definition in section 102 of the Controlled Substances Act (21 U.S.C. 802).*

*Covered multifamily dwellings means buildings consisting of 4 or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of 4 or more dwelling units.*

*Dwelling unit means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single-family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.*

*Entrance means any access point to a building or portion of a building used by residents for the purpose of entering.*

*Exterior means all areas of the premises outside of an individual dwelling unit. First occupancy means a building that has never before been used for any purpose.*

*Ground floor means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.*

*Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition:*

*(a) Physical or mental impairment includes:*

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



(2) *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, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.*

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

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

(d) *Is regarded as having an impairment means:*

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

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

(3) *Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.*

*Interior means the spaces, parts, components or elements of an individual dwelling unit.*

*Modification means any change to the public or common use areas of a building or any change to a dwelling unit.*

*Premises means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.*

*Public use areas mean interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.*

*Site means a parcel of land bounded by a property line or a designated portion of a public right of way.*

*§100.201a Incorporation by reference.*

(a) *The following standards are incorporated by reference into 24 CFR part 100 pursuant to 5 U.S.C. 552(a) and 1 CFR part 51, as though set forth in full. The incorporation by reference of*

*these standards has been approved by the Director of the Federal Register. The effect of compliance with these standards is as stated in 24 CFR 100.205.*

*(b) The addresses of organizations from which the referenced standards can be obtained appear below:*

*(1) American National Standard: Accessible and Usable Buildings and Facilities, 2003 edition, (ICC/ANSI A117.1-2003), may be obtained from the International Code Council, 500 New Jersey Avenue, NW., 6th Floor, Washington, DC 20001-2070, telephone number 1-888-422-7233, <http://www.iccsafe.org/e/category.html>.*

*(2) American National Standard: Accessible and Usable Buildings and Facilities, 1998 edition, (ICC/ANSI A117.1-1998), may be obtained from the International Code Council, 500 New Jersey Avenue, NW., 6th Floor, Washington, DC 20001-2070, telephone number 1-888-422-7233, <http://www.iccsafe.org/e/category.html>.*

*(3) American National Standard: Accessible and Usable Buildings and Facilities, 1992 edition, (CABO/ANSI A117.1-1992), may be obtained from the International Code Council, 500 New Jersey Avenue, NW., 6th Floor, Washington, DC 20001-2070, telephone number 1-888-422-7233, <http://www.iccsafe.org/e/category.html>.*

*(4) American National Standard for Buildings and Facilities: Providing Accessibility and Usability for Physically Handicapped People, 1986 edition, (ANSI A117.1-1986) may be obtained from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112, telephone number 1-800-854-7179, [global.ihs.com](http://global.ihs.com).*

*(c) The 1986, 1992, 1998, and 2003 editions of ANSI A117.1 may be inspected at the Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5240, Washington, DC 20410-0001, telephone number 202-708-2333.*

*§100.202 General prohibitions against discrimination because of handicap.*

*(a) It shall be unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—*

*(1) That buyer or renter.*

*(2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or*

*(3) Any person associated with that person.*

*(b) It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—*

*(1) That buyer or renter.*

(2) *A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or*

(3) *Any person associated with that person.*

(c) *It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:*

(1) *Inquiry into an applicant's ability to meet the requirements of ownership or tenancy.*

(2) *Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap.*

(3) *Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap.*

(4) *Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.*

(5) *Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.*

(d) *Nothing in this subpart requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.*

#### *§100.203 Reasonable modifications of existing premises.*

(a) *It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest-bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.*

(b) *A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.*

(c) *The application of paragraph (a) of this section may be illustrated by the following examples:*

*Example (1): A tenant with a handicap asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant, at the tenant's own expense, from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.*

*Example (2): An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.*

#### *§100.204 Reasonable accommodations.*

(a) *It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.*

(b) *The application of this section may be illustrated by the following examples: Example (1): A blind applicant for rental housing wants to live in a dwelling unit with a seeing eye dog. The building has a no pets policy. It is a violation of §100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because, without the seeing eye dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.*

*Example (2): Progress Gardens is a 300-unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a first come first served basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more*

*than a short distance and therefore requests that a parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation of §100.204 for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John an equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances.*

*§100.205 Design and construction requirements.*

*(a) Covered multifamily dwellings for first occupancy after March 13, 1991 shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this section, a covered multifamily dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if the dwelling is occupied by that date, or if the last building permit or renewal thereof for the dwelling is issued by a State, County or local government on or before June 15, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.*

*(b) The application of paragraph (a) of this section may be illustrated by the following examples:*

*Example (1): A real estate developer plans to construct six covered multifamily dwelling units on a site with a hilly terrain. Because of the terrain, it will be necessary to climb a long and steep stairway in order to enter the dwellings. Since there is no practical way to provide an accessible route to any of the dwellings, one need not be provided.*

*Example (2): A real estate developer plans to construct a building consisting of 10 units of multifamily housing on a waterfront site that floods frequently. Because of this unusual characteristic of the site, the builder plans to construct the building on stilts. It is customary for housing in the geographic area where the site is located to be built on stilts. The housing may lawfully be constructed on the proposed site on stilts even though this means that there will be no practical way to provide an accessible route to the building entrance.*

*Example (3): A real estate developer plans to construct a multifamily housing facility on a particular site. The developer would like the facility to be built on the site to contain as many units as possible. Because of the configuration and terrain of the site, it is possible to construct a building with 105 units on the site provided the site does not have an accessible route leading to the building entrance. It is also possible to construct a building on the site with an accessible route leading to the building entrance. However, such a building would have no more than 100 dwelling units. The building to be constructed on the site must have a building entrance on an accessible route because it is not impractical to provide such an entrance because of the terrain or unusual characteristics of the site.*

*(c) All covered multifamily dwellings for first occupancy after March 13, 1991 with a building entrance on an accessible route shall be designed and constructed in such a manner that—*

*(1) The public and common use areas are readily accessible to and usable by handicapped persons.*

*(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and*

*(3) All premises within covered multifamily dwelling units contain the following features of adaptable design:*

*(i) An accessible route into and through the covered dwelling unit.*

*(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.*

*(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and*

*(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.*

*(d) The application of paragraph (c) of this section may be illustrated by the following examples:*

*Example (1): A developer plans to construct a 100-unit condominium apartment building with one elevator. In accordance with paragraph (a), the building has at least one accessible route leading to an accessible entrance. All 100 units are covered multifamily dwelling units and they all must be designed and constructed so that they comply with the accessibility requirements of paragraph (c) of this section.*

*Example (2): A developer plans to construct 30 garden apartments in a three-story building. The building will not have an elevator. The building will have one accessible entrance which will be on the first floor. Since the building does not have an elevator, only the ground floor units are covered multifamily units. The ground floor is the first floor because that is the floor that has an accessible entrance. All of the dwelling units on the first floor must meet the accessibility requirements of paragraph (c) of this section and must have access to at least one of each type of public or common use area available for residents in the building.*

*(e)(1) Compliance with the appropriate requirements of ICC/ANSI A117.1-2003 (incorporated by reference at §100.201a), ICC/ANSI A117.1-1998 (incorporated by reference at §100.201a), CABO/ANSI A117.1-1992 (incorporated by reference at 100.201a), or ANSI A117.1-1986 (incorporated by reference at §100.201a) suffices to satisfy the requirements of paragraph (c)(3) of this section.*

(2) *The following also qualify as HUD-recognized safe harbors for compliance with the Fair Housing Act design and construction requirements:*

(i) *Fair Housing Accessibility Guidelines, March 6, 1991, in conjunction with the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, June 28, 1994.*

(ii) *Fair Housing Act Design Manual, published by HUD in 1996, updated in 1998.*

(iii) *2000 ICC Code Requirements for Housing Accessibility (CHA), published by the International Code Council (ICC), October 2000 (with corrections contained in ICC-issued errata sheet), if adopted without modification and without waiver of any of the provisions.*

(iv) *2000 International Building Code (IBC), as amended by the 2001 Supplement to the International Building Code (2001 IBC Supplement), if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act's design and construction requirements.*

(v) *2003 International Building Code (IBC), if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act's design and construction requirements, and conditioned upon the ICC publishing and distributing a statement to jurisdictions and past and future purchasers of the 2003 IBC stating, "ICC interprets Section 1104.1, and specifically, the Exception to Section 1104.1, to be read together with Section 1107.4, and that the Code requires an accessible pedestrian route from site arrival points to accessible building entrances, unless site impracticality applies. Exception 1 to Section 1107.4 is not applicable to site arrival points for any Type B dwelling units because site impracticality is addressed under Section 1107.7."*

(vi) *2006 International Building Code; published by ICC, January 2006, with the January 31, 2007, erratum to correct the text missing from Section 1107.7.5, if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act's design and construction requirements, and interpreted in accordance with the relevant 2006 IBC Commentary.*

(3) *Compliance with any other safe harbor recognized by HUD in the future and announced in the Federal Register will also suffice to satisfy the requirements of paragraph (c)(3) of this section.*

(f) *Compliance with a duly enacted law of a State or unit of general local government that includes the requirements of paragraphs (a) and (c) of this section satisfies the requirements of paragraphs (a) and (c) of this section.*

(g)(1) *It is the policy of HUD to encourage States and units of general local government to include, in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraphs (a) and (c) of this section.*

*(2) A State or unit of general local government may review and approve newly constructed multifamily dwellings for the purpose of making determinations as to whether the requirements of paragraphs (a) and (c) of this section are met.*

*(h) Determinations of compliance or noncompliance by a State or a unit of general local government under paragraph (f) or (g) of this section are not conclusive in enforcement proceedings under the Fair Housing Amendments Act.*

*(i) This subpart does not invalidate or limit any law of a State or political subdivision of a State that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subpart.*

#### *Subpart E—Housing for Older Persons*

##### *§100.300 Purpose.*

*The purpose of this subpart is to effectuate the exemption in the Fair Housing Amendments Act of 1988 that relates to housing for older persons.*

##### *§100.301 Exemption.*

*(a) The provisions regarding familial status in this part do not apply to housing which satisfies the requirements of §§100.302, 100.303 or §100.304.*

*(b) Nothing in this part limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.*

##### *§100.302 State and Federal elderly housing programs.*

*The provisions regarding familial status in this part shall not apply to housing provided under any Federal or State program that the Secretary determines is specifically designed and operated to assist elderly persons, as defined in the State or Federal program.*

##### *§100.303 62 or over housing.*

*(a) The provisions regarding familial status in this part shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:*

*(1) There are persons residing in such housing on September 13, 1988 who are under 62 years of age, provided that all new occupants are persons 62 years of age or older.*

*(2) There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or over.*



(3) *There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.*

(b) *The following examples illustrate the application of paragraph (a) of this section:*

*Example (1): John and Mary apply for housing at the Vista Heights apartment complex which is an elderly housing complex operated for persons 62 years of age or older. John is 62 years of age. Mary is 59 years of age. If Vista Heights wishes to retain its "62 or over" exemption it must refuse to rent to John and Mary because Mary is under 62 years of age. However, if Vista Heights does rent to John and Mary, it might qualify for the "55 or over" exemption in §100.304.*

*Example (2): The Blueberry Hill retirement community has 100 dwelling units. On September 13, 1988, 15 units were vacant, and 35 units were occupied with at least one person who is under 62 years of age. The remaining 50 units were occupied by persons who were all 62 years of age or older. Blueberry Hill can qualify for the "62 or over" exemption as long as all units that were occupied after September 13, 1988 are occupied by persons who were 62 years of age or older. The people under 62 in the 35 units previously described need not be required to leave for Blueberry Hill to qualify for the "62 or over" exemption.*

*§100.304 Housing for persons who are 55 years of age or older.*

(a) *The provisions regarding familial status in this part shall not apply to housing intended and operated for persons 55 years of age or older. Housing qualifies for this exemption if:*

(1) *The alleged violation occurred before December 28, 1995 and the housing community or facility complied with the HUD regulations in effect at the time of the alleged violation; or*

(2) *The alleged violation occurred on or after December 28, 1995 and the housing community or facility complies with:*

(i) *Section 807(b)(2)(C) (42 U.S.C. 3607(b)) of the Fair Housing Act as amended; and (ii) 24 CFR 100.305, 100.306, and 100.307.*

(b) *For purposes of this subpart, housing facility or community means any dwelling or group of dwelling units governed by a common set of rules, regulations or restrictions. A portion or portions of a single building shall not constitute a housing facility or community. Examples of a housing facility or community include, but are not limited to:*

(1) *A condominium association.*

(2) *A cooperative.*

(3) *A property governed by a homeowners' or resident association.*

(4) *A municipally zoned area.*

- (5) *A leased property under common private ownership.*
- (6) *A mobile home park; and*
- (7) *A manufactured housing community.*
- (c) *For purposes of this subpart, older person means a person 55 years of age or older.*

*§100.305 80 percent occupancy.*

(a) *In order for a housing facility or community to qualify as housing for older persons under §100.304, at least 80 percent of its occupied units must be occupied by at least one person 55 years of age or older.*

(b) *For purposes of this subpart, occupied unit means:*

(1) *A dwelling unit that is actually occupied by one or more persons on the date that the exemption is claimed; or*

(2) *A temporarily vacant unit, if the primary occupant has resided in the unit during the past year and intends to return on a periodic basis.*

(c) *For purposes of this subpart, occupied by at least one person 55 years of age or older means that on the date the exemption for housing designed for persons who are 55 years of age or older is claimed:*

(1) *At least one occupant of the dwelling unit is 55 years of age or older: or*

(2) *If the dwelling unit is temporarily vacant, at least one of the occupants immediately prior to the date on which the unit was temporarily vacated was 55 years of age or older.*

(d) *Newly constructed housing for first occupancy after March 12, 1989 need not comply with the requirements of this section until at least 25 percent of the units are occupied. For purposes of this section, newly constructed housing includes a facility or community that has been wholly unoccupied for at least 90 days prior to re-occupancy due to renovation or rehabilitation.*

(e) *Housing satisfies the requirements of this section even though:*

(1) *On September 13, 1988, under 80 percent of the occupied units in the housing facility or community were occupied by at least one person 55 years of age or older, provided that at least 80 percent of the units occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.*

(2) *There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.*

(3) *There are units occupied by employees of the housing facility or community (and family members residing in the same unit) who are under 55 years of age, provided the employees perform substantial duties related to the management or maintenance of the facility or community.*

(4) *There are units occupied by persons who are necessary to provide a reasonable accommodation to disabled residents as required by §100.204 and who are under the age of 55.*

(5) *For a period expiring one year from the effective date of this final regulation, there are insufficient units occupied by at least one person 55 years of age or older, but the housing facility or community, at the time the exemption is asserted:*

(i) *Has reserved all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units are occupied by at least one person who is 55 years of age or older; and*

(ii) *Meets the requirements of §§100.304, 100.306, and 100.307.*

(f) *For purposes of the transition provision described in §100.305(e)(5), a housing facility or community may not evict, refuse to renew leases, or otherwise penalize families with children who reside in the facility or community in order to achieve occupancy of at least 80 percent of the occupied units by at least one person 55 years of age or older.*

(g) *Where application of the 80 percent rule results in a fraction of a unit, that unit shall be considered to be included in the units that must be occupied by at least one person 55 years of age or older.*

(h) *Each housing facility or community may determine the age restriction, if any, for units that are not occupied by at least one person 55 years of age or older, so long as the housing facility or community complies with the provisions of §100.306.*

*§100.306 Intent to operate as housing designed for persons who are 55 years of age or older.*

(a) *In order for a housing facility or community to qualify as housing designed for persons who are 55 years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. The following factors, among others, are considered relevant in determining whether the housing facility or community has complied with this requirement:*

(1) *The manner in which the housing facility or community is described to prospective residents.*

(2) *Any advertising designed to attract prospective residents.*

(3) *Lease provisions.*

- (4) *Written rules, regulations, covenants, deed or other restrictions.*
- (5) *The maintenance and consistent application of relevant procedures.*
- (6) *Actual practices of the housing facility or community; and*
- (7) *Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.*

(b) *Phrases such as "adult living", "adult community", or similar statements in any written advertisement or prospectus are not consistent with the intent that the housing facility or community intends to operate as housing for persons 55 years of age or older.*

(c) *If there is language indeed or other community or facility documents which is inconsistent with the intent to provide housing for persons who are 55 years of age or older housing, HUD shall consider documented evidence of a good faith attempt to remove such language in determining whether the housing facility or community complies with the requirements of this section in conjunction with other evidence of intent.*

(d) *A housing facility or community may allow occupancy by families with children as long as it meets the requirements of §§100.305 and 100.306(a).*

#### *§100.307 Verification of occupancy.*

(a) *In order for a housing facility or community to qualify as housing for persons 55 years of age or older, it must be able to produce, in response to a complaint filed under this title, verification of compliance with §100.305 through reliable surveys and affidavits.*

(b) *A facility or community shall, within 180 days of the effective date of this rule, develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one occupant of each unit is 55 years of age or older. Such procedures may be part of a normal leasing or purchasing arrangement.*

(c) *The procedures described in paragraph (b) of this section must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. Such updates must take place at least once every two years. A survey may include information regarding whether any units are occupied by persons described in paragraphs (e)(1), (e)(3), and (e)(4) of §100.305.*

(d) *Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:*

- (1) *Driver's license.*
- (2) *Birth certificate.*
- (3) *Passport.*

- (4) *Immigration card.*
- (5) *Military identification.*
- (6) *Any other state, local, national, or international official documents containing a birth date of comparable reliability; or*
- (7) *A certification in a lease, application, affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.*
- (e) *A facility or community shall consider any one of the forms of verification identified above as adequate for verification of age, provided that it contains specific information about current age or date of birth.*
- (f) *The housing facility or community must establish and maintain appropriate policies to require that occupants comply with the age verification procedures required by this section.*
- (g) *If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the housing facility or community may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Such evidence may include:*
  - (1) *Government records or documents, such as a local household census.*
  - (2) *Prior forms or applications; or*
  - (3) *A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under the penalty of perjury.*
- (h) *Surveys and verification procedures which comply with the requirements of this section shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy.*
- (i) *A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.*

*§100.308 Good faith defense against civil money damages.*

- (a) *A person shall not be held personally liable for monetary damages for discriminating on the basis of familial status, if the person acted with the good faith belief that the housing facility or community qualified for a housing for older persons exemption under this subpart.*
- (b)(1) *A person claiming the good faith belief defense must have actual knowledge that the housing facility or community has, through an authorized representative, asserted in writing that it qualifies for a housing for older persons exemption.*

(2) *Before the date on which the discrimination is claimed to have occurred, a community or facility, through its authorized representatives, must certify, in writing and under oath or affirmation, to the person subsequently claiming the defense that it complies with the requirements for such an exemption as housing for persons 55 years of age or older in order for such person to claim the defense.*

(3) *For purposes of this section, an authorized representative of a housing facility or community means the individual, committee, management company, owner, or other entity having the responsibility for adherence to the requirements established by this subpart.*

(4) *For purposes of this section, a person means a natural person.*

(5) *A person shall not be entitled to the good faith defense if the person has actual knowledge that the housing facility or community does not, or will not, qualify as housing for persons 55 years of age or older. Such a person will be ineligible for the good faith defense regardless of whether the person received the written assurance described in paragraph (b) of this section.*

#### *Subpart F—Interference, Coercion or Intimidation*

##### *§100.400 Prohibited interference, coercion or intimidation.*

(a) *This subpart provides the Department's interpretation of the conduct that is unlawful under section 818 of the Fair Housing Act.*

(b) *It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.*

(c) *Conduct made unlawful under this section includes, but is not limited to, the following:*

(1) *Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, handicap, familial status, or national origin.*

(2) *Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, handicap, familial status, or national origin of such persons, or of visitors or associates of such persons.*

(3) *Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the race, color, religion, sex, handicap, familial status, or national origin of that person or of any person associated with that person.*

(4) *Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.*

(5) *Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Fair Housing Act.*

(6) *Retaliating against any person because that person reported a discriminatory housing practice to a housing provider or other authority.*

#### *Subpart G—Discriminatory Effect*

##### *§100.500 Discriminatory effect prohibited.*

(a) *General. Liability may be established under the Fair Housing Act based on a specific policy's or practice's discriminatory effect on members of a protected class under the Fair Housing Act even if the specific practice was not motivated by a discriminatory intent.*

(b) *Pleading stage. At the pleading stage, to state a discriminatory effects claim based on an allegation that a specific, identifiable policy or practice has a discriminatory effect, a plaintiff or charging party (hereinafter, "plaintiff") must sufficiently plead facts to support each of the following elements:*

(1) *That the challenged policy or practice is arbitrary, artificial, and unnecessary to achieve a valid interest or legitimate objective such as a practical business, profit, policy consideration, or requirement of law.*

(2) *That the challenged policy or practice has a disproportionately adverse effect on members of a protected class.*

(3) *That there is a robust causal link between the challenged policy or practice and the adverse effect on members of a protected class, meaning that the specific policy or practice is the direct cause of the discriminatory effect.*

(4) *That the alleged disparity caused by the policy or practice is significant; and*

(5) *That there is a direct relation between the injury asserted and the injurious conduct alleged.*

(a) *Burdens of proof in discriminatory effect cases. The burdens of proof to establish that a policy or practice has a discriminatory effect, are as follows:*

(1) *A plaintiff must prove by the preponderance of the evidence each of the elements in paragraphs (b)(2) through (5) of this section.*

(2) *A defendant or responding party (hereinafter, "defendant") may rebut a plaintiff's allegation under (b)(1) of this section that the challenged policy or practice is arbitrary, artificial, and unnecessary by producing evidence showing that the challenged policy or practice advances a valid interest (or interests) and is therefore not arbitrary, artificial, and unnecessary.*

(3) *If a defendant rebuts a plaintiff's assertion under paragraph (c)(1) of this section, the plaintiff must prove by the preponderance of the evidence either that the interest (or interests) advanced by the defendant are not valid or that a less discriminatory policy or practice exists that would serve the defendant's identified interest (or interests) in an equally effective manner without imposing materially greater costs on, or creating other material burdens for, the defendant.*

(b) *Defenses. The following defenses are available to a defendant in a discriminatory effect case.*

(1) *Pleading stage. The defendant may establish that a plaintiff has failed to sufficiently plead facts to support an element of a prima facie case under paragraph (b) of this section, including by showing that the defendant's policy or practice was reasonably necessary to comply with a third-party requirement, such as a:*

- (i) *Federal, state, or local law.*
- (ii) *Binding or controlling court, arbitral, administrative order or opinion; or*
- (iii) *Binding or controlling regulatory, administrative or government guidance or requirement.*

(2) *After the pleading stage. The defendant may establish that the plaintiff has failed to meet the burden of proof to establish a discriminatory effect claim under paragraph (c) of this section, by demonstrating any of the following:*

(i) *The policy or practice is intended to predict an occurrence of an outcome, the prediction represents a valid interest, and the outcome predicted by the policy or practice does not or would not have a disparate impact on protected classes compared to similarly situated individuals not part of the protected class, with respect to the allegations under paragraph (b). This is not an adequate defense, however, if the plaintiff demonstrates that an alternative, less discriminatory policy or practice would result in the same outcome of the policy or practice, without imposing materially greater costs on, or creating other material burdens for the defendant.*

(ii) *The plaintiff has failed to establish that a policy or practice has a discriminatory effect under paragraph (c) of this section.*

(iii) *The defendant's policy or practice is reasonably necessary to comply with a third-party requirement, such as a:*

- (A) *Federal, state, or local law.*



(B) *Binding or controlling court, arbitral, administrative order or opinion; or*

(C) *Binding or controlling regulatory, administrative, or government guidance or requirement.*

*(c) Business of insurance laws. Nothing in this section is intended to invalidate, impair, or supersede any law enacted by any state for the purpose of regulating the business of insurance.*

*(d) Remedies in discriminatory effect cases. In cases where liability is based solely on a discriminatory effect theory, remedies should be concentrated on eliminating or reforming the discriminatory practice so as to eliminate disparities between persons in a particular protected class and other persons. In administrative proceedings under 42 U.S.C. 3612(g) based solely on discriminatory effect theory, HUD will seek only equitable remedies, provided that where pecuniary damage is proved, HUD will seek compensatory damages or restitution; and provided further that HUD may pursue civil money penalties in discriminatory effect cases only where the defendant has previously been adjudged, within the last five years, to have committed unlawful housing discrimination under the Fair Housing Act, other than under this section.*

*(e) Severability. The framework of the burdens and defenses provisions are considered to be severable. If any provision is stayed or determined to be invalid or their applicability to any person or circumstances invalid, the remaining provisions shall be construed as to be given the maximum effect permitted by law.*

#### *Subpart H— Quid Pro Quo and Hostile Environment Harassment Source:*

##### *§100.600 Quid pro quo and hostile environment harassment.*

*(a) General. Quid pro quo and hostile environment harassment because of race, color, religion, sex, familial status, national origin or handicap may violate sections 804, 805, 806 or 818 of the Act, depending on the conduct. The same conduct may violate one or more of these provisions.*

*(1) Quid pro quo harassment. Quid pro quo harassment refers to an unwelcome request or demand to engage in conduct where submission to the request or demand, either explicitly or implicitly, is made a condition related to: The sale, rental or availability of a dwelling; the terms, conditions, or privileges of the sale or rental, or the provision of services or facilities in connection therewith; or the availability, terms, or conditions of a residential real estate-related transaction. An unwelcome request or demand may constitute quid pro quo harassment even if a person acquiesces in the unwelcome request or demand.*

*(2) Hostile environment harassment. Hostile environment harassment refers to unwelcome conduct that is sufficiently severe or pervasive as to interfere with: The availability, sale, rental, or use or enjoyment of a dwelling; the terms, conditions, or privileges of the sale or rental, or the provision or enjoyment of services or facilities in connection therewith; or the availability, terms, or conditions of a residential real estate-related transaction. Hostile environment harassment does not require a change in the economic benefits, terms, or conditions of the dwelling or*

*housing-related services or facilities, or of the residential real-estate transaction.*

*(i) Totality of the circumstances. Whether hostile environment harassment exists depends upon the totality of the circumstances.*

*(A) Factors to be considered to determine whether hostile environment harassment exists include, but are not limited to, the nature of the conduct, the context in which the incident(s) occurred, the severity, scope, frequency, duration, and location of the conduct, and the relationships of the persons involved.*

*(B) Neither psychological nor physical harm must be demonstrated to prove that a hostile environment exists. Evidence of psychological or physical harm may, however, be relevant in determining whether a hostile environment existed and, if so, the number of damages to which an aggrieved person may be entitled.*

*(C) Whether unwelcome conduct is sufficiently severe or pervasive as to create a hostile environment is evaluated from the perspective of a reasonable person in the aggrieved person's position.*

*i) Title VII affirmative defense. The affirmative defense to an employer's vicarious liability for hostile environment harassment by a supervisor under Title VII of the Civil Rights Act of 1964 does not apply to cases brought pursuant to the Fair Housing Act.*

*(b) Type of conduct. Harassment can be written, verbal, or other conduct, and does not require physical contact.*

*(c) Number of incidents. A single incident of harassment because of race, color, religion, sex, familial status, national origin, or handicap may constitute a discriminatory housing practice, where the incident is sufficiently severe to create a hostile environment or evidences a quid pro quo.*

*a. Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 CHAD and the Fair Housing Amendments Act of 1988), that extends protection against discrimination based on disability and familial status and spell out forms of prohibited discrimination; 24 CFR § 100 as noted above.*

*b. Executive Order 11063*

*c. Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities; 24 CFR § 8 which states:*  
*8.1 Purpose.*

*(a) The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, as amended (29 B.S.C. 794), to the end that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development.*

*This part also implements section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309). This part does not effectuate section 504 as it applies to any program or activity conducted by the Department. Compliance with this part does not assure compliance with requirements for accessibility by physically handicapped persons imposed under the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157; 24 CFR part 40).*

*(b) The policies and standards for compliance established by this part are established in contemplation of, and with a view to enforcement through, the Department's administration of programs or activities receiving Federal financial assistance and the administrative procedures described in subpart D (including, without limitation, judicial enforcement under §8.57(a)).*

## *§8.2 Applicability.*

*This part applies to all applicants for, and recipients of, HUD assistance in the operation of programs or activities receiving such assistance.*

## *§8.3 Definitions. As used in this part:*

*Accessible, when used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical handicaps. The phrase accessible to and usable by is synonymous with accessible.*

*Accessible, when used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with physical handicaps. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in §8.32 is accessible within the meaning of this paragraph. When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified individual with handicaps (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.*

*Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by §8.32. An accessible route that serves only accessible units occupied by persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments.*

*Adaptability means the ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without handicaps, or to accommodate the needs of persons with different types or degrees of disability. For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed but the alarms need*

*not be installed until such time as the unit is made ready for occupancy by a hearing-impaired person.*

*Alteration means any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems.*

*Applicant for assistance means one who submits an application, request, plan, or statement required to be approved by a Department official or by a primary recipient as a condition of eligibility for Federal financial assistance. An application means such a request, plan or statement.*

*Auxiliary aids mean 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. For example, auxiliary aids for persons with impaired vision may include readers, Braille materials, audio recordings, and other similar services and devices. Auxiliary aids for persons with impaired hearing may include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.*

*Department or HUD means the Department of Housing and Urban Development.*

*Facility means 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.*

*Federal financial assistance means any assistance provided or otherwise made available by the Department through any grant, loan, contract or any other arrangement, in the form of:*

- (a) Funds.*
- (b) Services of Federal personnel; or*
- (c) Real or personal property or any interest in or use of such property, including:*
  - (1) Transfers or leases of the property for less than fair market value or for reduced consideration; and*
  - (2) Proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government.*

*Federal financial assistance includes community development funds in the form of proceeds from loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended, but does not include assistance made available through direct Federal procurement contracts or payments made under these contracts or any other contract of insurance or guaranty.*

*Handicap means any condition or characteristic that renders a person an individual with handicaps.*

*Historic preservation programs or activities means programs or activities receiving Federal financial assistance that have preservation of historic properties as a primary purpose.*

*Historic properties mean those properties that are listed or are eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate State or local government body.*

*Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. For purposes of employment, this term does not include: Any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job. For purposes of other programs and activities, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:*

*(a) Physical or mental impairment includes:*

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

*(2) 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.*

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

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

*(d) Is regarded as having an impairment means:*

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

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

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

*Multifamily housing project means a project containing five or more dwelling units.*

*Primary recipient means a person, group, organization, State or local unit of government that is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program or activity.*

*Program or activity means all of the operations of:*

*(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or*

*(2) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government.*

*(b)(1) A college, university, or other post-secondary institution, or a public system of higher education; or*

*(2) A local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system.*

*(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—*

*(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or*

*(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or*

*(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or*

*(d) Any other entity which is established by two or more of the entities described in paragraphs (a), (b), or (c) of this section, any part of which is extended Federal financial assistance.*

*Project means the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract for Federal financial assistance or application for assistance, or are treated as a whole for processing purposes, whether or not located on a common site.*

*Qualified individual with handicaps means:*

- (a) With respect to employment, an individual with handicaps who, with reasonable accommodation, can perform the essential functions of the job in question; and*
- (b) With respect to any non-employment program or activity which requires a person to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the recipient can demonstrate would result in a fundamental alteration in its nature; or*
- (c) With respect to any other non-employment program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity. Essential eligibility requirements include stated eligibility requirements such as income as well as other explicit or implicit requirements inherent in the nature of the program or activity, such as requirements that an occupant of multifamily housing be capable of meeting the recipient's selection criteria and be capable of complying with all obligations of occupancy with or without supportive services provided by persons other than the recipient. For example, a chronically mentally ill person whose particular condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his or her own health or safety in the absence of necessary supportive services may be qualified for occupancy in a project where such supportive services are provided by the recipient as part of the assisted program. The person may not be qualified for a project lacking such services.*

*Recipient means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or subrecipient merely by virtue of receipt of such payments.*

*Replacement cost of the completed facility means the current cost of construction and equipment for a newly constructed housing facility of the size and type being altered. Construction and equipment costs do not include the cost of land, demolition, site improvements, non-dwelling facilities and administrative costs for project development activities.*

*Secretary means the Secretary of Housing and Urban Development.*

*Section 504 means section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, as it applies to programs or activities receiving Federal financial assistance.*

*Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.*

#### *§8.4 Discrimination prohibited.*

*(a) No qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department.*

*(b)(1) A recipient, in providing any housing, aid, benefit, or service in a program or activity that receives Federal financial assistance from the Department may not, directly or through contractual, licensing, or other arrangements, solely on the basis of handicap:*

*(i) Deny a qualified individual with handicaps the opportunity to participate in, or benefit from, the housing, aid, benefit, or service.*

*(ii) Afford a qualified individual with handicaps an opportunity to participate in, or benefit from, the housing, aid, benefit, or service that is not equal to that afforded to others.*

*(iii) Provide a qualified individual with handicaps with any housing, aid, benefit, or service that is not as effective in affording the individual an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.*

*(iv) Provide different or separate housing, aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps from that provided to others unless such action is necessary to provide qualified individuals with handicaps with housing, aid, benefits, or services that are as effective as those provided to others.*

*(v) Aid or perpetuate discrimination against a qualified individual with handicaps by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any housing, aid, benefit, or service to beneficiaries in the recipient's federally assisted program or activity.*

*(vi) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards.*

*(vii) Deny a dwelling to an otherwise qualified buyer or renter because of a handicap of that buyer or renter or a person residing in or intending and eligible to reside in that dwelling after it is sold, rented or made available; or*



(viii) *Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other qualified individuals receiving the housing, aid, benefit, or service.*

(2) *For purposes of this part, housing, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for individuals with handicaps and non-handicapped persons but must afford individuals with handicaps equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.*

(3) *A recipient may not deny a qualified individual with handicaps the opportunity to participate in any federally assisted program or activity that is not separate or different despite the existence of permissibly separate or different programs or activities.*

(4) *In any program or activity receiving Federal financial assistance from the Department, a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would:*

(i) *Subject qualified individuals with handicaps to discrimination solely on the basis of handicap.*

(ii) *Defeat or substantially impair the accomplishment of the objectives of the recipient's federally assisted program or activity for qualified individuals with a particular handicap involved in the program or activity, unless the recipient can demonstrate that the criteria or methods of administration are manifestly related to the accomplishment of an objective of a program or activity; or*

(iii) *Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.*

(5) *In determining the site or location of a federally assisted facility, an applicant for assistance or a recipient may not make selections the purpose or effect of which would:*

(i) *Exclude qualified individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from the Department, or*

(ii) *Defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with handicaps.*

(6) *As used in this section, the housing, aid, benefit, or service provided under a program or activity receiving Federal financial assistance includes any housing, aid, benefit, or service provided in or through a facility that has been constructed, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.*

*(c)(1) Non-handicapped persons may be excluded from the benefits of a program if the program is limited by Federal statute or executive order to individuals with handicaps. A specific class of individuals with handicaps may be excluded from a program if the program is limited by Federal statute or Executive order to a different class of individuals.*

*(2) Certain Department programs operate under statutory definitions of handicapped person that are more restrictive than the definition of individual with handicaps contained in §8.3. Those definitions are not superseded or otherwise affected by this regulation.*

*(d) Recipients shall administer programs and activities receiving Federal financial assistance in the most integrated setting appropriate to the needs of qualified individuals with handicaps.*

*(e) The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement that, based on handicap, imposes inconsistent or contradictory prohibitions or limits upon the eligibility of qualified individuals with handicaps to receive services or to practice any occupation or profession.*

*(f) The enumeration of specific forms of prohibited discrimination in paragraphs (b) through (e) of this section does not limit the general prohibition in paragraph (a) of this section.*

#### *§8.5 [Reserved]*

#### *§8.6 Communications.*

*(a) The recipient shall take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public.*

*(1) The recipient shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving Federal financial assistance.*

*(i) In determining what auxiliary aids are necessary, the recipient shall give primary consideration to the requests of the individual with handicaps.*

*(ii) The recipient is not required to provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.*

*(2) Where a recipient communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective communication systems shall be used.*

*(b) The recipient shall adopt and implement procedures to ensure that interested persons (including persons with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities, and facilities.*

*(c) This section does not require a recipient to take any action that the recipient can demonstrate would result in a fundamental alteration in the nature of a program or activity or*

*in undue financial and administrative burdens. If an action would result in such an alteration or burdens, the recipient shall take another action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity receiving HUD assistance.*

#### *§8.22 New construction—housing facilities.*

*(a) New multifamily housing projects (including public housing and Indian housing projects as required by §8.25) shall be designed and constructed to be readily accessible to and usable by individuals with handicaps.*

*(b) Subject to paragraph (c) of this section, a minimum of five percent of the total dwelling units or at least one unit in a multifamily housing project, whichever is greater, shall be made accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in §8.32 is accessible for purposes of this section. An additional two percent of the units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments.*

*(c) HUD may prescribe a higher percentage or number than that prescribed in paragraph (b) of this section for any area upon request therefor by any affected recipient or by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data (including a currently effective Housing Assistance Plan or Comprehensive Homeless Assistance Plan), or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without handicaps.*

#### *§8.23 Alterations of existing housing facilities.*

*(a) Substantial alteration. If alterations are undertaken to a project (including a public housing project as required by §8.25(a)(2)) that has 15 or more units and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the provisions of §8.22 shall apply.*

*(b) Other alterations. (1) Subject to paragraph (b)(2) of this section, alterations to dwelling units in a multifamily housing project (including public housing) shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with handicaps. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once five percent of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with handicaps. For purposes of this paragraph, the phrase to the maximum extent feasible shall not be interpreted as requiring*

*that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.*

*(2) HUD may prescribe a higher percentage or number than that prescribed in paragraph (b)(1) of this section for any area upon request therefor by any affected recipient or by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data (including a currently effective Housing Assistance Plan or Comprehensive Homeless Assistance Plan), or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without handicaps.*

#### *§8.24 Existing housing programs.*

*(a) General. A recipient shall operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—*

*(1) Necessarily require a recipient to make each of its existing facilities accessible to and usable by individuals with handicaps.*

*(2) Require a recipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the recipient shall take any action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.*

*(b) Methods. A recipient may comply with the requirements of this section through such means as reassignment of services to accessible buildings, assignment of aides to beneficiaries, provision of housing or related services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. A recipient is not required to make structural changes in existing housing facilities where other methods are effective in achieving compliance with this section or to provide supportive services that are not part of the program. In choosing among available methods for meeting the requirements of this section, the recipient shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.*

*(c) Time period for compliance. The recipient shall comply with the obligations established under this section within sixty days of July 11, 1988 except that—*

*(1) In a public housing program where structural changes in facilities are undertaken, such changes shall be made within the timeframes established in §8.25(c).*

(2) *In other housing programs, where structural changes in facilities are undertaken, such changes shall be made within three years of July 11, 1988, but in any event as expeditiously as possible.*

(d) *Transition plan and time period for structural changes. Except as provided in §8.25(c), in the event that structural changes to facilities will be undertaken to achieve program accessibility, a recipient shall develop, within six months of July 11, 1988, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including individuals with handicaps or organizations representing individuals with handicaps. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—*

(1) *Identify physical obstacles in the recipient's facilities that limit the accessibility of its programs or activities to individuals with handicaps.*

(2) *Describe in detail the methods that will be used to make the facilities accessible.*

(3) *Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period.*

(4) *Indicate the official responsible for implementation of the plan; and*

(5) *Identify the persons or groups with whose assistance the plan was prepared.*

#### *§8.25 Public housing and multi-family Indian housing.*

(a) *Development and alteration of public housing and multi-family Indian housing. (1) The requirements of §8.22 shall apply to all newly constructed public housing and multi-family Indian housing.*

(2) *The requirements of §8.23 shall apply to public housing and multi-family Indian housing developed through rehabilitation and to the alteration of public housing and multi-family Indian housing.*

(3) *In developing public housing and multi-family Indian housing through the purchase of existing properties PHAs and IHAs shall give priority to facilities which are readily accessible to and usable by individuals with handicaps.*

(a) *Existing public housing and multi-family Indian housing general. The requirements of §8.24(a) shall apply to public housing and multi-family Indian housing programs.*

(b) *Existing public housing and multi-family Indian housing—needs assessment and transition plan. As soon as possible, each PHA (for the purpose of this paragraph, this includes an Indian Housing Authority) shall assess, on a PHA-wide basis, the needs of current tenants and applicants on its waiting list for accessible units and the extent to which such needs have not been met or cannot reasonably be met within four years through development, alterations otherwise contemplated, or other programs administered by the PHA (e.g., Section 8 Moderate*

*Rehabilitation or Section 8 Existing Housing or Housing Vouchers). If the PHA currently has no accessible units or if the PHA or HUD determines that information regarding the availability of accessible units has not been communicated sufficiently so that, as a result, the number of eligible qualified individuals with handicaps on the waiting list is not fairly representative of the number of such persons in the area, the PHA's assessment shall include the needs of eligible qualified individuals with handicaps in the area. If the PHA determines, on the basis of such assessment, that there is no need for additional accessible dwelling units or that the need is being or will be met within four years through other means, such as new construction, Section 8 or alterations otherwise contemplated, no further action is required by the PHA under this paragraph. If the PHA determines, on the basis of its need's assessment, that alterations to make additional units accessible must be made so that the needs of eligible qualified individuals with handicaps may be accommodated proportionally to the needs of non-handicapped individuals in the same categories, then the PHA shall develop a transition plan to achieve program accessibility. The PHA shall complete the needs assessment and transition plan, if one is necessary, as expeditiously as possible, but in any event no later than two years after July 11, 1988. The PHA shall complete structural changes necessary to achieve program accessibility as soon as possible but in any event no later than four years after July 11, 1988. The Assistant Secretary for Fair Housing and Equal Opportunity and the Assistant Secretary for Public and Indian Housing may extend the four-year period for a period not to exceed two years, on a case-by-case determination that compliance within that period would impose undue financial and administrative burdens on the operation of the recipient's public housing and multi-family Indian housing program. The Secretary or the Undersecretary may further extend this time period in extraordinary circumstances, for a period not to exceed one year. The plan shall be developed with the assistance of interested persons including individuals with handicaps or organizations representing individuals with handicaps. A copy of the needs assessment and transition plan shall be made available for public inspection. The transition plan shall, at a minimum:*

- (1) Identify physical obstacles in the PHA's facilities (e.g., dwelling units and common areas) that limit the accessibility of its programs or activities to individuals with handicaps.*
- (2) Describe in detail the methods that will be used to make the PHA's facilities accessible. A PHA may, if necessary, provide in its plan that it will seek HUD approval, under 24 CFR part 968, of a comprehensive modernization program to meet the needs of eligible individuals with handicaps.*
- (3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period.*
- (4) Indicate the official responsible for implementation of the plan; and*
- (5) Identify the persons or groups with whose assistance the plan was prepared. (Approved by the Office of Management and Budget under control number 2529-0034)*

*§8.26 Distribution of accessible dwelling units.*

*Accessible dwelling units required by §8.22, 8.23, 8.24 or 8.25 shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a sufficient range of sizes and amenities so that a qualified individual with handicaps' choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade level.*

*§8.27 Occupancy of accessible dwelling units.*

*(a) Owners and managers of multifamily housing projects having accessible units shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, when an accessible unit becomes vacant, the owner or manager before offering such units to a non-handicapped applicant shall offer such unit:*

*(1) First, to a current occupant of another unit of the same project, or comparable projects under common control, having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then*

*(2) Second, to an eligible qualified applicant on the waiting list having a handicap requiring the accessibility features of the vacant unit.*

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

*§8.28 Housing certificate and housing voucher programs.*

*(a) In carrying out the requirements of this subpart, a recipient administering a Section 8 Existing Housing Certificate program, or a housing voucher program shall:*

*(1) In providing notice of the availability and nature of housing assistance for low-families under program requirements, adopt suitable means to assure that the notice reaches eligible individuals with handicaps.*

*(2) In its activities to encourage participation by owners, include encouragement of participation by owners having accessible units.*

*(3) When issuing a Housing Certificate or Housing Voucher to a family which includes an individual with handicaps include a current listing of available accessible units known to the PHA and, if necessary, otherwise assist the family in locating an available accessible dwelling unit.*

(4) *Take into account the special problem of ability to locate an accessible unit when considering requests by eligible individuals with handicaps for extensions of Housing Certificates or Housing Vouchers; and*

(5) *If necessary, as a reasonable accommodation for a person with disabilities, approve a family request for an exception rent under §982.504(b)(2) for a regular tenancy under the Section 8 certificate program so that the program is readily accessible to and usable by persons with disabilities.*

(b) *In order to ensure that participating owners do not discriminate in the recipient's federally assisted program, a recipient shall enter into a HUD-approved contract with participating owners, which contract shall include necessary assurances of nondiscrimination.*

*§8.29 Homeownership programs (sections 235(i) and 235(j), Turnkey III and Indian housing mutual self-help programs).*

*Any housing units newly constructed or rehabilitated for purchase or single family (including semi-attached and attached) units to be constructed or rehabilitated in a program or activity receiving Federal financial assistance shall be made accessible upon request of the prospective buyer if the nature of the handicap of an expected occupant so requires. In such case, the buyer shall consult with the seller or builder/sponsor regarding the specific design features to be provided. If accessibility features selected at the option of the homebuyer are ones covered by the standards prescribed by §8.32, those features shall comply with the standards prescribed in §8.32. The buyer shall be permitted to depart from particular specifications of these standards in order to accommodate his or her specific handicap. The cost of making a facility accessible under this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (see 24 CFR 235.320.)*

*§8.30 Rental rehabilitation program.*

*Each grantee or state recipient in the rental rehabilitation program shall, subject to the priority in 24 CFR 511.10(l) and in accordance with other requirements in 24 CFR part 511, give priority to the selection of projects that will result in dwelling units being made readily accessible to and usable by individuals with handicaps.*

*§8.31 Historic properties.*

*If historic properties become subject to alterations to which this part applies the requirements of §4.1.7 of the standards of §8.32 of this part shall apply, except in the case of the Urban Development Action Grant (UDAG) program. In the UDAG program the requirements of 36 CFR part 801 shall apply. Accessibility to historic properties subject to alterations need not be provided if such accessibility would substantially impair the significant historic features of the property or result in undue financial and administrative burdens.*



### *§8.32 Accessibility standards.*

*(a) Effective as of July 11, 1988, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) shall be deemed to comply with the requirements of §§8.21, 8.22, 8.23, and 8.25 with respect to those buildings. Departures from particular technical and scoping requirements of the UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided. The alteration of housing facilities shall also be in conformance with additional scoping requirements contained in this part. Persons interested in obtaining a copy of the UFAS are directed to §40.7 of this title.*

*(b) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of individuals with physical handicaps.*

*(c) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.*

*(d) For purposes of this section, section 4.1.4(11) of UFAS may not be used to waive or lower the minimum of five percent accessible units required by §8.22(b) or to apply the minimum only to projects of 15 or more dwelling units.*

*(e) Except as otherwise provided in this paragraph, the provisions of §§8.21 (a) and (b), 8.22 (a) and (b), 8.23, 8.25(a) (1) and (2), and 8.29 shall apply to facilities that are designed, constructed or altered after July 11, 1988. If the design of a facility was commenced before July 11, 1988, the provisions shall be followed to the maximum extent practicable, as determined by the Department. For purposes of this paragraph, the date a facility is constructed or altered shall be deemed to be the date bids for the construction or alteration of the facility are solicited. For purposes of the Urban Development Action Grant (UDAG) program, the provisions shall apply to the construction or alteration of facilities that are funded under applications submitted after July 11, 1988. If the UDAG application was submitted before July 11, 1988, the provisions shall apply, to the maximum extent practicable, as determined by the Department.*

### *§8.33 Housing adjustments.*

*A recipient shall modify its housing policies and practices to ensure that these policies and practices do not discriminate, on the basis of handicap, against a qualified individual with handicaps. The recipient may not impose upon individuals with handicaps other policies, such as the prohibition of assistive devices, auxiliary alarms, or guides in housing facilities, that have the effect of limiting the participation of tenants with handicaps in the recipient's federally assisted housing program or activity in violation of this part. Housing policies that the recipient can demonstrate are essential to the housing program or activity will not be regarded as discriminatory within the meaning of this section if modifications to them would result in a fundamental alteration in the nature of the program or activity or undue financial and administrative burdens.*

## *Subpart D—Enforcement*

### *§8.50 Assurances required.*

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance to HUD, or in the case of a subrecipient to a primary recipient, on a form specified by the responsible civil rights official, that the program or activity will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(a) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

#### *§8.51 Self-evaluation.*

*(a) Each recipient shall, within one year of July 11, 1988, and after consultation with interested persons, including individuals with handicaps or organizations representing individuals with handicaps:*

*(1) Evaluate its current policies and practices to determine whether, in whole or in part, they do not or may not meet the requirements of this part.*

*(2) Modify any policies and practices that do not meet the requirements of this part; and*

*(3) Take appropriate corrective steps to remedy the discrimination revealed by the self-evaluation.*

*(b) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (a)(1) of this section, maintain on file, make available for public inspection, and provide to the responsible civil rights official, upon request: (1) A list of the interested persons consulted; (2) a description of areas examined, and any problems identified; and (3) a description of any modifications made and of any remedial steps taken.*

#### *§8.52 Remedial and affirmative action.*

*(a) Remedial action. (1) If the responsible civil rights official finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the responsible civil rights official deems necessary to overcome the effects of the discrimination.*

*(2) The responsible civil rights official may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action—*

*(i) With respect to individuals with handicaps who are no longer participants in the program but who were participants in the program when such discrimination occurred or*

*(ii) With respect to individuals with handicaps who would have been participants in the program had the discrimination not occurred.*

*(a) Voluntary action. A recipient may take nondiscriminatory steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified individuals with handicaps.*

#### *§8.53 Designation of responsible employee and adoption of grievance procedures.*

*(a) Designation of responsible employee. A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.*

*(b) Adoption of grievance procedures. A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to housing covered by this part.*

*§8.54 Notice.*

*(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to*

*§8.53. A recipient shall make the initial notification required by this paragraph within 90 days of July 11, 1988. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.*

*(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.*

*(c) The recipient shall ensure that members of the population eligible to be served or likely to be affected directly by a federally assisted program who have visual, or hearing impairments are provided with the information necessary to understand and participate in the program. Methods for ensuring participation include, but are not limited to, qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.*

*§8.55 Compliance information.*

*(a) Cooperation and assistance. The responsible civil rights official and the award official shall, to the fullest extent practicable, seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.*

*(b) Compliance reports. Each recipient shall keep such records and submit to the responsible civil rights official or his or her designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible civil rights official or his or her designee may determine to be necessary to enable him or her to ascertain whether the recipient has complied or is complying with this part. In general,*

*recipients should have available for the Department data showing the extent to which individuals with handicaps are beneficiaries of federally assisted programs.*

*(c) Access to sources of information. Each recipient shall permit access by the responsible civil rights official during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.*

*(d) Information to beneficiaries and participants. Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program or activity under which the recipient receives Federal financial assistance and make such information available to them in such manner as the responsible civil rights official finds necessary to apprise such persons of the protections against discrimination assured them by this part.*

#### *§8.56 Conduct of investigations.*

*(a) Periodic compliance reviews. The responsible civil rights official or designee may periodically review the practices of recipients to determine whether they are complying with this part and where he or she has a reasonable basis to do so may conduct on-site reviews. Such basis may include any evidence that a problem exists or that programmatic matters exist that justify on-site investigation in selected circumstances. The responsible civil rights official shall initiate an on-site review by sending to the recipient a letter advising the recipient of the practices to be reviewed; the programs affected by the review; and the opportunity, at any time prior to receipt of a final determination, to make a documentary or other submission that explains, validates, or otherwise addresses the practices under review. In addition, each award official shall include in normal program compliance reviews and monitoring procedures appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of this part.*

*(b) Investigations. The responsible civil rights official shall make a prompt investigation whenever a compliance review, report, complaint or any other information indicates a possible failure to comply with this part.*

*(c) Filing a complaint—(1) Who may file. Any person who believes that he or she has been subjected to discrimination prohibited by this part may by himself or herself or by his or her authorized representative file a complaint with the responsible civil rights official. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the responsible civil rights official.*

*(2) Confidentiality. The responsible civil rights official shall hold in confidence the identity of any person submitting a complaint, unless the person submits written authorization otherwise,*

*and except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or proceeding under this part.*

*(3) When to file. Complaints shall be filed within 180 days of the alleged act of discrimination, unless the responsible civil rights official waives this time limit for good cause shown. For purposes of determining when a complaint is filed under this paragraph, a complaint mailed to the Department shall be deemed filed on the date it is postmarked. Any other complaint shall be deemed filed on the date it is received by the Department.*

*(4) Where to file complaints. Complaints may be filed by mail with the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410, or any Regional or Field Office of the Department.*

*(5) Contents of complaints. Each complaint should contain the complainant's name and address, the name and address of the recipient alleged to have violated this part, and a description of the recipient's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation of this part.*

*(6) Amendments of complaints. Complaints may be reasonably and fairly amended at any time. Amendments to complaints such as clarification and amplification of allegations in a complaint or the addition of other recipients may be made at any time during the pendency of the complaint and any amendment shall be deemed to be made as of the original filing date.*

*(a) Notification. The responsible civil rights official will notify the complainant and the recipient of the agency's receipt of the complaint within ten (10) calendar days.*

*(b) Complaint processing procedures. After acknowledging receipt of a complaint, the responsible civil rights official will immediately initiate complaint processing procedures.*

*(1) Preliminary investigation.*

*(i) Within twenty (20) calendar days of acknowledgement of the complaint, the responsible civil rights official will review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.*

*(ii) If the complaint is accepted, the responsible civil rights official will notify the complainant and the award official. The responsible civil rights official will also notify the applicant or recipient complained against of the allegations and give the applicant or recipient an opportunity to make a written submission responding to, rebutting, or denying the allegations raised in the complaint.*

*(iii) The party complained against may send the responsible civil rights official a response to the notice of complaint within thirty (30) calendar days of receiving it. With leave of the responsible civil rights official, an answer may be amended at any time. The responsible civil rights official will permit answers to be amended for good cause shown.*

*(2) Informal resolution. In accordance with paragraph (j) of this section, the responsible civil rights official shall attempt to resolve complaints informally whenever possible.*

(c) *Dismissal of complaint. If the investigation reveals no violation of this part, the responsible civil rights official will dismiss the complaint and notify the complainant and recipient.*

(d) *Letter of findings. If an informal resolution of the complaint is not reached the responsible civil rights official or his or her designee shall, within 180 days of receipt of the complaint, notify the recipient and the complainant (if any) of the results of the investigation in a letter sent by certified mail, return receipt requested, containing the following:*

(1) *Preliminary findings of fact and a preliminary finding of compliance or noncompliance.*

(2) *A description of an appropriate remedy for each violation believed to exist.*

(3) *A notice that a copy of the Final Investigative Report of the Department will be made available, upon request, to the recipient and the complainant (if any); and*

(4) *A notice of the right of the recipient and the complainant (if any) to request a review of the letter of findings by the reviewing civil rights official.*

(e) *Right to review of the letter of findings. (1) A complainant or recipient may request that a complete review be made of the letter of findings within 30 days of receipt, by mailing or delivering to the reviewing civil rights official, Office of Fair Housing and Equal Opportunity, Washington, DC 20410, a written statement of the reasons why the letter of findings should be modified in light of supplementary information.*

(2) *The reviewing civil rights official shall send by certified mail, return receipt requested, a copy of the request for review to the other party, if any. Such other party shall have 20 days to respond to the request for review.*

(3) *The reviewing civil rights official shall either sustain or modify the letter of findings within 60 days of the request for review. The reviewing civil rights official's decision shall constitute the formal determination.*

(4) *If neither party requests that the letter of findings be reviewed, the responsible civil rights official shall, within fourteen (14) calendar days of the expiration of the time period in paragraph (h)(1) of this section, send a formal written determination of compliance or noncompliance to the recipient and copies to the award official.*

(i) *Voluntary compliance time limits. The recipient will have ten (10) calendar days from receipt of the formal determination of noncompliance within which to come into voluntary compliance. If the recipient fails to meet this deadline, HUD shall proceed under §8.57.*

(j) *Informal resolution/voluntary compliance—(1) General. It is the policy of the Department to encourage the informal resolution of matters. The responsible civil rights official may attempt to resolve a matter through informal means at any stage of processing. A matter may be resolved by informal means at any time. If a letter of findings making a preliminary finding of*

*noncompliance is issued, the responsible civil rights official shall attempt to resolve the matter by informal means.*

*(2) Objectives of informal resolution/voluntary compliance. In attempting informal resolution, the responsible civil rights official shall attempt to achieve a just resolution of the matter and to obtain assurances where appropriate, that the recipient will satisfactorily remedy any violations of the rights of any complainant and will take such action as will assure the elimination of any violation of this part or the prevention of the occurrence of such violation in the future. The terms of such an informal resolution shall be reduced to a written voluntary compliance agreement, signed by the recipient and the responsible civil rights official, and be made part of the file for the matter. Such voluntary compliance agreements shall seek to protect the interests of the complainant (if any), other persons similarly situated, and the public interest.*

*(k) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by this part, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of investigation, hearing or judicial proceeding arising thereunder.*

#### *§8.57 Procedure for effecting compliance.*

*(a) General. If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be affected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by other means authorized by law. Such other means may include, but are not limited to:*

*(1) A referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking.*

*(2) The initiation of debarment proceedings pursuant to 2 CFR part 2424; and*

*(3) Any applicable proceeding under State or local law.*

*(b) Noncompliance with §8.50. If an applicant or a recipient of assistance under a contract which is extended or amended on or after July 11, 1988, fails or refuses to furnish an assurance required under §8.50 or otherwise fails or refuses to comply with the requirements imposed by that section, Federal financial assistance may be refused under paragraph (c) of this section. The Department is not required to provide assistance during the pendency of the administrative proceeding under such paragraph (c), except where the assistance is due and payable under a contract approved before July 11, 1988.*



*(c) Termination of or refusal to grant or to continue Federal financial assistance. No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:*

*(1) The responsible civil rights official has advised the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means.*

*(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed under this part.*

*(3) The action has been approved by the Secretary; and*

*(4) The expiration of 30 days after the Secretary has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate, or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.*

*(d) Notice to State or local government. Whenever the Secretary determines that a State or unit of general local government which is a recipient of Federal financial assistance under title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301-5318) has failed to comply with a requirement of this part with respect to a program or activity funded in whole or in part with such assistance, the Secretary shall notify the Governor of the State or the chief executive officer of the unit of general local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. The notice shall be given at least sixty days before:*

*(1) An order suspending, terminating, or refusing to grant or continue Federal financial assistance becomes effective under paragraph (c) of this section; or*

*(2) Any action to effect compliance by any other means authorized by law is taken under paragraph (a) of this section.*

*(a) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until:*

*(1) The responsible civil rights official has determined that compliance cannot be secured by voluntary means.*

*(2) The recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and*

*(3) At least 10 days have elapsed since the mailing of such notice to the applicant or recipient. During this period, additional efforts shall be made to persuade the applicant or*

*recipient to comply with this part and to take such corrective action as may be appropriate.*

*However, this paragraph shall not be construed to prevent an award official from utilizing appropriate procedures and sanctions established under the program to assure or secure compliance with a specific requirement of the program designed to effectuate the objectives of this part.*

#### *§8.58 Hearings.*

*(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by §8.57(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action. The notice shall:*

*(1) Fix a date not less than 20 days after the date of the notice for the applicant or recipient to request the administrative law judge to schedule a hearing, or*

*(2) Advise the applicant or recipient that the matter has been scheduled for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set is a waiver of the right to a hearing under §8.57(c) and consent to the making of a decision on the basis of available information.*

*(a) Hearing procedures. Hearings shall be conducted in accordance with 24 CFR part 180.*

*a. Age Discrimination Act of 1975, which establishes certain rights of the elderly; 24 CFR § 146 which states: §146.1 Purpose of the Age Discrimination Act of 1975.*

*The Age Discrimination Act of 1975 (the Act) prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act, however, permits federally assisted programs and activities and recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this part.*

#### *§146.3 Purpose of HUD's age discrimination regulation.*

*The purpose of this part is to state HUD's policies and procedures under the Age Discrimination Act of 1975, consistent with the government-wide age discrimination regulation contained at 45 CFR part 90.*

#### *§146.5 Applicability of part.*

*This part applies to each program or activity that receives Federal financial assistance provided by HUD.*

*§146.7 Definitions.*

*The terms HUD and Secretary are defined in 24 CFR part 5.*

*Act means the Age Discrimination Act of 1975, 42 U.S.C. 6101-07.*

*Action means any act, activity, policy, rule, standard, or method of administration or the use of any policy, rule, standard, or method of administration.*

*Age means how old a person is, or the number of elapsed years from the date of a person's birth.*

*Age distinction means any action using age or an age-related term.*

*Age-related term means a word or words which necessarily imply a particular age or range of ages (for example, children, adult, older persons, but not student).*

*Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which HUD provides or otherwise makes available assistance in the form of:*

- (a) Funds.*
- (b) Service of Federal personnel; or*
- (c) Real or personal property or any interest in or use of property, including:*
  - (1) Transfers or leases of property for less than fair market value or for reduced consideration; and*
  - (2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal government.*

*Recipient means any State or its political subdivisions; any instrumentality of a State or its political subdivisions; any public or private agency; any Indian tribe or Alaskan Native Village, institution, organization, or other entity; or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but does not include the ultimate beneficiary of the assistance.*

*Subrecipient means any of the entities in the definition of recipient to which a recipient extends or passes on Federal financial assistance. A subrecipient is regarded as a recipient of Federal financial assistance and has all the duties of a recipient set out in this part.*

*United States means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.*

#### *Subpart B—Standards for Determining Age Discrimination*

##### *§146.11 Scope of subpart.*

*This subpart contains the standards that HUD will use to determine whether an age distinction, or a factor other than age that may have a disproportionate effect on persons of different ages, is prohibited.*

##### *§146.13 Rules against age discrimination.*

*(a) The rules stated in this paragraph are limited by the exceptions contained in paragraphs (b) and (c) of this section.*

*(1) General rule. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.*

*(2) Specific rules. A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contracting, licensing, or other arrangements, use age distinctions or take any other actions that have the effect, on the basis of age, of:*

*(i) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or*

*(ii) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.*

*(3) The specific forms of age discrimination listed in paragraph (a)(2) of this section do not necessarily constitute a complete list.*

*(b) Exceptions for normal operation or statutory objective of any program or activity. A recipient is permitted to take an action otherwise prohibited by paragraph (a) of this section if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:*

*(1) Age is used as a measure or approximation of one or more other characteristics; and*

*(2) The other characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and*

(3) *The other characteristics can be reasonably measured or approximated by the use of age; and*

(4) *The other characteristics are impractical to measure directly on an individual basis.*

(c) *Exceptions for reasonable factors other than age. A recipient is permitted to take action otherwise prohibited by paragraph (a) of this section if the action is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or the achievement of a statutory objective.*

(d) *Burden of proof. The burden of proving that an age distinction or other action falls within an exception described in paragraph (b) or (c) of this section is on the recipient of Federal financial assistance.*

(e) *For the purposes of paragraphs (b) and (c), normal operation means the operation of a program or activity without significant changes that would impair its ability to meet its statutory objectives. Statutory objectives mean any purpose of a program or activity expressly stated in any Federal, State, or local statute adopted by an elected, general purpose legislative body.*

(f) *Notwithstanding paragraph (b) of this section, if a recipient operating a program provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program.*

#### *Subpart C—Duties of HUD Recipients*

##### *§146.21 General responsibilities.*

*Each recipient has primary responsibility to ensure that its programs and activities that receive Federal financial assistance from HUD comply with the provisions of the Act, the government-wide regulation, and this part, and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford HUD access to its records to the extent HUD finds necessary to determine whether a program or activity receiving Federal financial assistance from HUD is in compliance with the Act and this part.*

##### *§146.23 Notice of subrecipients.*

*Whenever a recipient passes Federal financial assistance from HUD to subrecipients, the recipient shall provide the subrecipient with written notice of its obligations under this part and the recipient will remain responsible for the subrecipient's compliance with respect to programs and activities receiving Federal financial assistance from HUD.*

##### *§146.25 Assurance of compliance and recipient assessment of age distinctions.*

(a) *Each recipient of Federal financial assistance from HUD shall sign a written assurance as specified by HUD that it will comply with the Act and this part with respect to programs and activities receiving Federal financial assistance from HUD.*

(b) *As part of a compliance review under §146.31 or an investigation under §146.37, HUD may require a recipient employing the equivalent of 15 or more employees to complete, in a manner specified by the Secretary or Secretary's designee, a written self-evaluation of any age distinction imposed in its program or activity receiving Federal financial assistance from HUD, so that HUD may have to assess the recipient's compliance with the Act. Whenever an assessment indicates a violation of the Act or this part, the recipient shall take corrective action to remedy the violation.*

#### *§146.27 Information requirements.*

*In order to make it possible for HUD to determine whether recipients are in compliance with the Act and this part, each recipient shall:*

(a) *Keep records in a form and containing information that HUD determines is necessary.*

(b) *Make information available to HUD upon request.*

(c) *Permit reasonable access by HUD to the books, records, accounts and other recipient facilities and sources of information.*

#### *Subpart D—Investigation, Settlement, and Enforcement Procedures §146.31 Compliance reviews.*

(a) *HUD may conduct pre-award reviews to determine whether programs or activities submitted for HUD assistance are consistent with the age distinctions set forth at §146.13(b).*

(b) *If a pre-award review indicates that the proposed programs or activities are not consistent with the age distinctions set forth at §146.13(b), the application will be returned to the applicant for additional information or clarification or for correction consistent with this part.*

(c) *HUD may conduct compliance reviews of recipients that will enable it to investigate and correct violations of this part. HUD may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary for HUD to determine whether a violation has occurred.*

(d) *If a compliance review indicates a violation, HUD will attempt to achieve voluntary compliance. If voluntary compliance cannot be achieved, HUD may begin enforcement procedures as provided in §146.39.*

#### *§146.33 Complaints.*

(a) *Any person, individually or as a member of a class or on behalf of others, may file a complaint with HUD alleging discrimination prohibited by the Act. A complainant shall file a*

*complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause, HUD may extend this time limit. The filing date for a complaint will be the date upon which the complaint is deemed sufficient to be processed.*

*(b) HUD shall facilitate the filing of complaints and shall take the following measures:*

*(1) Accept as a sufficient complaint any written legible statement which is signed by the complainant and which identifies the parties involved, the date the complainant first had knowledge of the alleged violation, and describes generally the alleged prohibited action or practice.*

*(2) Freely permit a complainant to add information to the complaint to meet the requirements of a sufficient complaint.*

*(3) Widely disseminate information regarding the obligations of recipients under the Act and this part.*

*(4) Notify the complainant and the recipient of their rights under the complaint process, including the right to have a representative at all stages of the complaint process; and*

*(5) Notify the complainant and the recipient of their right to contact HUD for information and assistance regarding the complaint resolution process.*

*c) HUD will return to the complainant any complaint determined to be outside the coverage of this part and shall state the reasons why it is outside the coverage.*

#### *§146.35 Mediation.*

*(a) HUD shall refer to the Federal Mediation and Conciliation Service, a mediation agency designated by the Secretary of Health and Human Services, all complaints that:*

*(1) Fall within the coverage of this part, unless the age distinction complained of is clearly with an exception; and*

*(2) Contain all information necessary for further processing.*

*(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informal judgment that an agreement is not possible. There should be at least one meeting by each party with the mediator during the mediation process. However, the recipient and the complainant need not meet with the mediator at the same time.*

*(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to HUD. HUD will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.*

(d) *The mediator shall protect the confidentiality of information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without the prior approval of the head of the mediation agency.*

(e) *HUD shall use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:*

(1) *60 days elapse from the time HUD receives the complaint; or*

(2) *Before the end of the 60-day period, an agreement is reached; or*

(3) *Before the end of the 60-day period, the mediator determines that an agreement cannot be reached.*

*This 60-day period may be extended by the mediator, with the concurrence of HUD, for not more than an additional 30 days if the mediator determines that it is likely that an agreement will be reached during such extended period.*

#### *§146.37 Investigation.*

(a) *Investigation and settlement following mediation. (1) HUD shall investigate complaints that are unresolved after mediation or are reopened because of an alleged violation of a mediation agreement.*

(2) *In the investigation of complaints filed under this part, HUD will establish facts through such methods as discussion with the complainant and recipient and the review of documents in the possession of either party. HUD may also seek the assistance of any applicable State agency. Where possible, HUD will settle the complaint on terms that are mutually agreeable to the parties.*

(3) *Settlements shall be in writing and signed by the parties and by an authorized HUD official.*

(4) *A settlement shall not affect the initiation or continuation of any other enforcement effort of HUD, including compliance reviews or investigation of other complaints involving the recipient.*

(5) *A settlement reached under this paragraph (a) of this section is an agreement to resolve an alleged violation of the Act to the satisfaction of the parties involved, and does not constitute a finding of discrimination against the recipient.*

(a) *Failure of settlement. If HUD cannot resolve the complaint through settlement, it may make a formal determination that the Act or this part has been violated and begin enforcement procedures, as provided in §146.39. HUD shall inform the recipient and complainant in writing that the matter cannot be resolved through settlement.*

#### *§146.39 Enforcement procedures.*



*(a) HUD may enforce the Act this regulation by:*

*(1) Termination of a recipient's financial assistance from HUD under the program or activity involved, if the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an Administrative Law Judge. If the financial assistance consists of a Community Development Block Grant, the requirements of section 109(b) of the Housing and Community Development Act of 1974, 42 U.S.C. 5309, must also be satisfied before the termination of financial assistance. Cases settled in mediation or before hearing will not involve termination of a recipient's Federal financial assistance from HUD.*

*(2) Any other means authorized by law, including, but not limited to:*

*(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this part;*

*(ii) Use of any requirement of, or referral to, any Federal, State or local government agency that will have the effect of correcting a violation of the Act or this part.*

*(b) Whenever the Secretary determines that a State or unit of general local government which is a recipient of Federal financial assistance under Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301-5317, has failed to comply with requirements of the Age Discrimination Act or this part with respect to a program or activity funded in whole or in part with such assistance, he or she shall notify the Governor of such State or the chief executive officer of such unit of general local government of the noncompliance and shall request the Governor or chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the Governor or chief executive officer fails or refuses to secure compliance, the Secretary is authorized to take the action specified in (a) of this section, exercise the powers and functions provided for in section 111(a) of the Housing and Community Act of 1974, 42U.S.C. 5311(a), or take such other action as may be provided by law.*

*(c) HUD shall limit any termination under §146.35 to the particular recipient and particular program or activity HUD finds to be in violation of this part. HUD shall not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from HUD.*

*(d) HUD shall take no action under paragraph (a) of this section until:*

*(1) The Secretary has advised the recipient of its failure to comply with the Act or this part and has determined that voluntary compliance cannot be achieved.*

*(2) Thirty days have elapsed after the Secretary has submitted a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.*

*(e)(1) The Secretary may defer the provision of new Federal financial assistance to a recipient when termination proceedings under this section are initiated.*

*(2) New financial assistance from HUD includes all assistance for which HUD requires an application, approval, or submissions under the Community Development Block Grant program including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New financial assistance from HUD does not include increases in funding as a result of changed computation for formula awards or assistance approved before the beginning of a hearing under this section.*

*(3) HUD shall not impose a deferral until the recipient has received a notice of an opportunity for a hearing under this section. HUD shall not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. HUD shall not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding that the recipient has violated that Act or this part.*

#### *§146.41 Prohibition against intimidation or retaliation.*

*A recipient may not engage in acts of intimidation or retaliation against any person who:*

- (a) Attempts to assert a right protected by this part; or*
- (b) Cooperates in any mediation, investigation, hearing, or other part of HUD's investigation, settlement, and enforcement process.*

#### *§146.43 Hearings, decisions, post-termination proceedings.*

#### *§146.45 Exhaustion of administrative remedies.*

*(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:*

- (1) 180 days have elapsed since the complainant filed the complaint and HUD had made no finding with regard to the complaint; or*
- (2) HUD issues any finding in favor of the recipient.*

*(a) If HUD fails to make a finding within 180 days or issues a finding in favor of the recipient, HUD shall:*

- (1) Promptly advise the complainant of this fact;*
- (2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and*
- (3) Inform the complainant:*

- (i) *That he or she may bring a civil action only in a United States District Court for the district in which the recipient is located or transacts business;*
- (ii) *That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;*
- (iii) *That before commencing the action, the complainant must give 30 days' notice by registered mail to the Secretary of HUD, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient;*
- (iv) *That the notice must state: the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and*
- (v) *That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.*

*§146.47 Remedial and affirmative action by recipients.*

- (a) *Where the Secretary finds that a recipient has unlawfully discriminated on the basis of age, the recipient shall take any action that the Secretary may require to overcome the effects of the discrimination. If another recipient exercises control over a subrecipient that has unlawfully discriminated, the Secretary may require both recipients to take remedial action.*
- (b) *Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.*
- (c) *If a recipient operating a program which serves the elderly or children in addition to persons of other ages provides special benefits to the elderly or children, the provision of those benefits shall be presumed to be voluntary affirmative action, provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.*

*§146.49 Alternate funds disbursement procedure.*

- (a) *Except as otherwise provided in this paragraph and to the extent authorized by law, the Secretary may redisperse funds withheld or terminated under this part directly to an alternate recipient, including any public or non-profit private organization or agency, State or political subdivision of the State. Under title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301, funds withheld because of a reduction or withdrawal of a recipient's Community Development Block Grant must be reallocated in the succeeding fiscal year, in accordance with the applicable regulations governing that program.*
- (b) *The Secretary shall require the alternate recipient to demonstrate:*
  - (1) *The ability to comply with the regulations; and*

(2) *The ability to achieve the goals of the Federal statute authorizing the program or activity a. Title II of the Americans with Disabilities Act, otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units.)*

b. *"Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity" (regulations published 2/3/12-- 24 CFR § 5.105(a)(2)) which states:*

#### *5.105 Other Federal requirements.*

*The requirements set forth in this section apply to all HUD programs, except as may be otherwise noted in the respective program regulations in title 24 of the CFR, or unless inconsistent with statutes authorizing certain HUD programs:*

(a) *Nondiscrimination and equal opportunity. (1) The Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR part 100 et seq.; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d- 2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.; 24 CFR part 8; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p.339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p.139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).*

(2) *Equal access to HUD-assisted or -insured housing. A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by HUD shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.*

(b) *Disclosure requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 et seq.).*

(c) *Debarred, suspended, or ineligible contractors and participants. The prohibitions at 2 CFR part 2424 on the use of debarred, suspended, or ineligible contractors and participants.*

*(d) Drug-free workplace. The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 2 CFR part 2429.*

*a. Violence Against Women Act of 2005 and 2013 Reauthorization (VAWA)*

*b. Any applicable State laws or local ordinances.*

*2. PHA shall not discriminate because of race, color, national origin, sex, religion, familial status, disability, actual or perceived sexual orientation, or gender identity in the leasing, rental, occupancy, use, or other disposition of housing or related facilities, including land, that is part of a development under the PHA's jurisdiction covered by a public housing Annual Contributions Contract with HUD. 24 CFR § 100 as noted above.*

*3. PHA shall not deny admission to otherwise qualified applicants because of their membership in some group to which negative behavior may be imputed (e.g., families with children born to unmarried parents or families whose head or spouse is a student). Instead, each applicant who is a member of a particular group will be treated as an individual based on his or her attributes and behavior. 24 CFR § 960.203(a) which states:*

*§960.203 Standards for PHA tenant selection criteria.*

*(a) The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member. The PHA may use local preferences, as provided in §960.206.*

*1. PHA will work to affirmatively further fair housing and to remove impediments to housing choice by members of protected classes.*

*2. PHA will offer units only in the order prescribed by this policy, since any other method violates the rights of applicants.*

*B. Reasonable Accommodations*

*1. PHA, as a public agency that provides low rent housing to eligible families, has a legal obligation to provide "reasonable accommodations" to applicants and residents if they or any family members have a disability. 24 CFR § 8.4*

*2. A reasonable accommodation is some modification or change PHA can make to its apartments, buildings, or methods and procedures that will assist an otherwise eligible applicant with a disability to take full advantage of and use PHA's programs, including those that are operated by other agencies in PHA-owned public space. 24 CFR § 8.20*

*3. An accommodation is not reasonable if it: 24 CFR § 8.21(b) and 24 CFR § 8.24(a)(2) as noted above.*

*a. Causes an undue financial and administrative burden; or*

*b. Represents a fundamental alteration in the nature of PHA's program.*

*4. Subject to the undue burdens and fundamental alterations tests, PHA will correct physical situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take full advantage of the PHA's housing program and non-housing programs, in accordance with Section 504 and the Fair Housing Amendments Act of 1988, PHA shall comply with all requirements and prohibitions in applicable law. 24 CFR § 8.4 as noted above.*

*5. Facilities and programs used by applicants and residents shall be accessible to persons in wheelchairs, persons with sensory impairments and other persons with disabilities. Application and management offices, hearing rooms, community centers, day care centers, laundry facilities, craft and game rooms, etc. (to the extent that the PHA has such facilities) will be usable by residents with a full range of disabilities. If PHA offers such facilities, and none is accessible, some will be made so, subject to the undue financial and administrative burden test. 24 CFR § 8.2 as noted above.*

*6. Documents and procedures used by applicants and residents will be accessible for those with vision, hearing or other sensory impairments. Also, all documents will be written simply and clearly to enable applicants with learning or cognitive disabilities to understand as much as possible. 24 CFR § 8.6 as previously noted above.*

*7. Examples of reasonable accommodations include, but are not limited to: 24 CFR § 8.4 as noted above.*

*a. Making alterations to a PHA apartment to make it fully accessible so it could be used by a person in a wheelchair;*

*b. Transferring a resident, at PHA's expense, who needs a fully accessible unit from an apartment that cannot be made accessible to an apartment that is accessible;*

*c. Widening the door of a community room or public restroom so a person in a wheelchair may use the facility;*

*d. Adding or altering apartment or building features so they may be used by a family member with a disability, including but not limited to;*

*1) Installing strobe-type flashing light smoke detectors and flashing light/doorbell for a family with a hearing impaired member*

*2) Adding structural grab bars in the bathroom*

*3) Changing the doorknobs to lever-type door handles*

*4) Installing a magnifier over the thermostat*

5) *Switching the bathtub to a shower*

6) *Lowering the peephole on the door*

a. *Permitting a family to have an assistance/ animal (medically- verified need for and not subject to the PHA Pet Policy) for a family member with a disability. 24 CFR § 960.705 which states:*

*960.705 Animals that assist, support, or provide service to persons with disabilities.*

(a) *This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in §960.703, and such animals that visit these developments.*

(b) *Nothing in this subpart G:*

(1) *Limits or impairs the rights of persons with disabilities;*

(2) *Authorizes PHAs to limit or impair the rights of persons with disabilities; or*

(3) *Affects any authority that PHAs may have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, State, or local law.*

a. *Making sure that PHA processes are understandable to applicants and residents with sensory or cognitive impairments, including but not limited to:24 CFR § 8.6 as noted above.*

1) *Making large type documents, Braille documents, cassettes, CDs or a reader available to an applicant or resident with a vision impairment during interviews or meetings with PHA staff*

2) *Using personal visits, interviews or telephone calls to convey information to an applicant or resident who cannot read*

3) *Making a sign language interpreter available to an applicant with a hearing impairment during interviews or meetings with PHA staff*

4) *Permitting an applicant or resident to be accompanied or represented by a family member, friend or advocate at all meetings and interviews with PHA if the individual desires such representation*

5) *Permitting an outside agency or individual to assist an applicant with a disability to meet the PHA's applicant screening criteria*

a. *To meet the standard of HUD's definition of "Qualified Individual with a Disability" a family head or other member with a disability must still be able to meet essential obligations of tenancy. They must be able 24 CFR § 8.3*

1) *to pay rent and other charges (e.g. utility bills) as required by the Lease in a timely manner*

2) *to care for and avoid damaging the apartment and common areas; to use facilities and equipment in a reasonable way*

3) *to create no health, or safety hazards, and to report maintenance needs*

4) *not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others*

5) *not to engage in prohibited criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity*

6) *to comply with necessary and reasonable rules and program requirements of HUD and the PHA*

*There is no requirement that they be able to do these things without assistance.*

a. *If an applicant or resident family member needs assistance with one of the essential obligations of tenancy, PHA will, as a reasonable accommodation, make a referral to an individual or agency that can provide such assistance. 24 CFR §8.20 as noted above.*

i. *If an applicant or resident receives a referral to an agency or individual who can assist the applicant or resident with complying with the essential obligations of tenancy, the applicant or resident is not obligated to accept the service, but if refusing service results in a Lease violation, PHA may terminate the Lease. 24 CFR § 8.2 as noted above.*

j. *An applicant or resident family with a member who has a disability and needs or wants a reasonable accommodation may request it at any time. 24 CFR § 8.20 as noted before.*

k. *Any request that requires a certified verification must be submitted directly to the PHA by the qualified person making the certification.*

l. *If an applicant or resident would prefer not to discuss his/her disability with the PHA, that is his/her right.*



**Community Service and Self-Sufficiency Requirement Addendum Forms**



## **Attachment A**

### **Community Services and Self-Sufficiency Requirement (CSSR) Certification For Non-Exempt Individuals**

#### **Initial Program Participation**

Date: \_\_\_\_\_

Participant Name: \_\_\_\_\_

I have received and read the Community Services and Self Sufficiency Requirement (CSSR) Policy. I understand that as a resident of MHA, I am required by law to contribute 8 hours per month (96 hours over the course of a year) of community service or participate in an economic self-sufficiency program. I further understand that if I am not exempt, failure to comply with CSSR is grounds for lease nonrenewal. My signature below certifies that I received notice of this requirement at the time of initial program participation.

Signature: \_\_\_\_\_

Date of Signature: \_\_\_\_\_



## **Attachment B**

### **Community Services and Self-Sufficiency Requirement (CSSR) Certification For Non-Exempt Individuals**

#### **Recertification**

Date: \_\_\_\_\_

Participant Name: \_\_\_\_\_

I understand that as a resident of public housing, I am required by law to contribute 8 hours per month (96 hours over the course of a year) of community service or participate in an economic self-sufficiency program.

Signature: \_\_\_\_\_

Date of Signature: \_\_\_\_\_



## Attachment C

### Community Service and Self Sufficiency Requirement (CSSR) Exemption Certification

I certify that I am eligible for an exemption from the CSSR for the following reason:

- ☐ I am 62 or older
- ☐ I have a disability which prevents me from working  
*(Certification of Disability Form will serve as documentation)*
- ☐ I am the caretaker of a disabled person
- ☐ I am working at least 30 hours per week (see CSSR Policy for activities)  
*(Employment Verification form will serve as documentation)*
- ☐ I am receiving and am compliant with requirements of the Temporary Assistance for Needy Families (TANF)  
*(Must provide verification from the funding agency that you are complying with job training or work requirements)*
- ☐ I am receiving and am compliant with requirements of the Supplemental Nutrition Assistance Program (SNAP)  
*(Must provide verification from the funding agency that you are complying with job training or work requirements)*
- ☐ I am receiving assistance, benefits, or services under another welfare program of the State (including a State-administered Welfare-to-Work program) and am in compliance with such program's requirements.  
*(Must provide verification from the funding agency that you are complying with job training or work requirements)*

---

Resident

---

Date



## **Attachment D**

### **Primary Caretaker Certification**

I, \_\_\_\_\_, understanding the penalties under the law for misrepresenting facts to a government agency of the United States, do hereby certify that I am the primary caretaker for \_\_\_\_\_.

I understand that, as such, I am entitled to an exemption from the Community Service and Self Sufficiency Requirement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

[illegible]

[illegible]



## **Attachment G**

### **Notification of Noncompliance**

Date: \_\_\_\_\_

Dear: \_\_\_\_\_

Please be advised that MHA has not received documentation evidencing completion of 96 hours of community service for the following members of your family:

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All non-exempt adult members of the family must complete the community service hours as a part of the annual recertification process. If you feel one or more of the above listed family members may be eligible for an exemption, please see the management office.

You may also be eligible to enter into an agreement to complete deficient service hours.

In the event service hours have not been completed for all adult members, you may be issued a 30-day notice of lease termination. Your cooperation in this matter is needed to assist in preserving your housing opportunity.

Sincerely,

Memphis Housing Authority





## CSSR Work-Out Agreement

In accordance with the provisions of the MHA's Community Service and Self-Sufficiency Requirement (CSSR) Policy, I/We agree to complete all deficient service hours over the next 12-month period ending \_\_\_\_\_.

I/We understand that MHA may issue a 30-day notice of lease termination if the service hour requirements of your lease are not brought into compliance by \_\_\_\_\_.

I/we understand what volunteer work qualifies as community service and what types of programs qualify for self-sufficiency participation.

\_\_\_\_\_  
Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Family Member

\_\_\_\_\_  
Date

\*\*\*\*\*  
\*\*\*\*\*

MHA USE ONLY

APPROVED BY: \_\_\_\_\_

\_\_\_\_\_  
Date



### Schedule to Make Up Deficient Hours

HOURS DEFICIENT	NUMBER OF MONTHS TO COMPLETE
8	1
16	2
24	3
32	4
40	5
48	6
56	7
64	8
72	9
80	10
88	11
96	12

**Evacuation Assistance Form**



# Evacuation Assistance Form

## Voluntary Self-Identification

If you have a disability which may impede your ability to evacuate in the event of an emergency Memphis Housing Authority would like to work with you to create personalized evacuation plans for the locations in which you live.

Please complete this form. The information you share during this process will be kept confidential and used only by Memphis Housing Authority, the Department of Public Safety and local police and fire officials responding to a building emergency.

**In the event of an emergency evacuation, we ask that you go to the nearest area of rescue assistance, if possible, and press the emergency alarm button. This will inform emergency officials of your location.**

If you no longer require assistance or your assistance needs change, please submit an updated form at your earliest convenience.

Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Apartment Number: \_\_\_\_\_

Reason for needed assistance: \_\_\_\_\_

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Type of Assistance Needed: \_\_\_\_\_

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If this is a temporary request, please provide a date when assistance will no longer be needed.

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## FY2023 Flat Rent Schedule

MEMPHIS HOUSING AUTHORITY FLAT RENTS FOR 12/1/22-11/30/23							
	0	1	2	3	4	5	6
Property	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm
Barry Towers	\$640	\$722					
Borda Towers	\$640	\$722	\$826				
Jefferson Square	\$640	\$722	\$826				
Venson Center	\$640	\$722	\$826				
Latham Terrace		\$722	\$826				
University Place Senior		\$722	\$826				
University Place Ph II & III - Large		\$648	\$733	\$979	\$1,131		
University Place Ph II & III - Low Rise		\$634	\$713	\$956	\$1,106		
University Place Ph II & III - Homes				\$932	\$1,075		
Magnolia Terrace		\$722	\$826				
Fairway Manor Senior		\$648	\$733				
Montgomery Plaza - Low Rise		\$638					
Montgomery Plaza - Large			\$740	\$990	\$1,149	\$1,325	
G.E. Patterson Pointe - Homes			\$665	\$881	\$1,006		
G.E. Patterson Pointe - Low Rise			\$673				
Crockett Place - Low Rise			\$713	\$956	\$1,106		
Crockett Place - Large				\$979			
Cleaborn Senior		\$648	\$733				
Cleaborn Pointe II, III, IV Low Rise		\$634	\$713	\$956	\$1,106		
Greenlaw Place - Large		\$662	\$737	\$985			
Uptown Square - Low Rise		\$636	\$719	\$964			
Metropolitan Apartments - Large		\$650	\$737	\$985			
Harold E. Ford, Sr. Villas		\$592	\$663	\$886	\$1,019		
Austin Park Place			\$673	\$896	\$1,029	\$1,178	
Kefauver Terrace	\$563	\$634					

MEMPHIS HOUSING AUTHORITY FLAT RENTS FOR 12/1/22-11/30/23 pg. 2							
	0	1	2	3	4	5	6
Property	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm	Bedrm
Lakeview Landing				\$932	\$1,075		
Levi Landing				\$932	\$1,075		
Legends Park North		\$722	\$826				
Legends Park East & West - Low Rise		\$634	\$713	\$956			
Legends Park East & West - Large		\$648	\$733	\$979	\$1,131		
Legends Park East - Homes						\$1,236	
Lyons Ridge Senior		\$722	\$826				
Village at Cypresswood			\$713	\$956			

## Grievance Request Form





**Memphis Housing Authority**

**GRIEVANCE PANEL REQUEST FORM**

I, \_\_\_\_\_, of \_\_\_\_\_ hereby request that Memphis Housing Authority, convene a Grievance Hearing on one of the following:

**CHECK ONE:**

\_\_\_\_\_ I disagree with the CHANGE in rent as stated on your notice of a rental adjustment, and therefore I am requesting a hearing with the Grievance Panel. I have placed the rent in the escrow bank account of the Authority, and I realize that I must continue to put the monthly rent in the escrow account until a final decision is made under the Grievance Procedure.

\_\_\_\_\_ I do not owe the rent as stated on your five-day demand notice, and therefore I am requesting a hearing with the Grievance Panel. I have placed the rent due (see section 3.1.2 in Grievance Procedures for the amount to be placed in escrow) in the escrow bank account of the Authority, and I realize that I must continue to put the monthly rent in the escrow account until a final decision is made under the Grievance Procedure.

\_\_\_\_\_ I disagree 100 percent with the decision made by the Hearing Officer at the informal hearing held on \_\_\_\_\_ (see attached decision).

\_\_\_\_\_ I disagree in part with the decision made by the Hearing Officer at the informal hearing held on \_\_\_\_\_ (see attached decision) for the following reasons:


I prefer to have a Grievance Panel Hearing at the following time(s) of day:

First preference: \_\_\_\_\_

Second preference: \_\_\_\_\_

Third preference: \_\_\_\_\_



I have received a copy of the Grievance Panel Request Form.

I have received a copy of the Grievance Panel Procedures.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

=====

Received by Memphis Housing Authority on

\_\_\_\_\_  
Date Time:

\_\_\_\_\_  
Signature

=====

Copy to MHA Attorney

Copy to Tenant/Applicant

Copy to MHA Tenant/Applicant file

## I-Speak Booklet

# I speak ...

## A

### Amharic

እኔ አማርኛ ነው ምናገረው.

### Arabic

أنا أتحدث اللغة العربية

### Armenian

Ես խոսում եմ հայերեն

## B

### Bengali

আমি বাংলা কথা বলতে পারী

### Bosnian

Ja govorim bosanski

### Bulgarian

Аз говоря български

### Burmese

ကျွန်တော်/ကျွန်မ မြန်မာ လို ပြောတတ် ပါတယ်။

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## C

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### Cambodian

ខ្ញុំនិយាយភាសាខ្មែរ

### Cantonese

我講廣東話 (Traditional)

我讲广东话 (Simplified)

### Catalan

Parlo català

### Croatian

Govorim hrvatski

### Czech

Mluvím česky

---

## D

---

### Danish

Jeg taler dansk

### Dari

من دری حرف می زنم

### Dutch

Ik spreek het Nederlands

---

## E

---

### Estonian

Ma räägin eesti keelt

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## F

---

### Finnish

Puhun suomea

### French

Je parle français

---

## G

---

### **German**

Ich spreche Deutsch

### **Greek**

Μιλώ τα ελληνικά

### **Gujarati**

હુ ગુજરાતી બોલુ છુ

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## H

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### Haitian Creole

M pale kreyòl ayisyen

### Hebrew

אני מדבר עברית

### Hindi

मैं हिंदी बोलता हूँ ।

### Hmong

Kuv has lug Moob

### Hungarian

Beszélek magyarul



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## I

---

### **Icelandic**

Èg tala íslensku

### **Ilocano**

Agsaonak ti Ilokano

### **Indonesian**

syay bisa berbahsa Indonesia

### **Italian**

Parlo italiano

---

## J

---

### **Japanese**

私は日本語を話す

---

## K

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### Kackchiquel

Quin chagüic'ká chabal' ruin' rí  
tzújon cakchiquel

### Korean

한국어 합니다

### Kurdish

man Kurdii zaanim

### Kurmanci

man Kurmaanji zaanim

---

## L

---

### Laotian

ຂອຍປາກພາສາລາວ

### Latvian

Es runāju latviski

### Lithuanian

Aš kalbu lietuviškai

---

## M

---

### Mandarin

我講國語 (Traditional)

我讲国语/普通话 (Simplified)

### Mam

Bán chiyola tuj kíyol mam

### Mon

အဲဟို အင်္ဂလိပ်စာ

---

## N

---

### Norwegian

Jeg snakker norsk

---

## P

---

### Persian

من فارسی صحبت می کنم.

### Polish

Mówię po polsku

### Portuguese

Eu falo português do Brasil  
(for Brazil)

Eu falo português de Portugal  
(for Portugal)

### Punjabi

ਮੈਂ ਪੰਜਾਬੀ ਬੋਲਦਾ/ਬੋਲਦੀ ਹਾਂ।

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## Q

---

### Qanjobal

Ayin tí chí walq' anjob' al

### Quiche

In kinch'aw k'uin ch'e quiche

---

## R

---

### Romanian

Vorbesc românește

### Russian

Я говорю по-русски

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## S

---

### Serbian

Ja govorim српски

### Sign Language (American)



I, ME



SIGN, SIGN LANGUAGE

## **Slovak**

Hovorím po slovensky

## **Slovenian**

Govorim slovensko

## **Somali**

Waxaan ku hadlaa af-Soomaali

## **Spanish**

Yo hablo español

## **Swahili**

Ninaongea Kiswahili

## **Swedish**

Jag talar svenska

---

## **T**

---

## **Tagalog**

Marunong akong mag-Tagalog

## **Tamil**

நான் தமிழ் பேசுவேன்

Thai

พุดภาษาไทย

Turkish

Türkçe konuşurum

---

U

---

Ukrainian

Я розмовляю українською мовою

Urdu

میں اردو بولتا ہوں

---

V

---

Vietnamese

Tôi nói tiếng Việt

---

W

---

Welsh

Dwi'n siarad

---

## X

---

**Xhosa**

Ndithetha isiXhosa

---

## Y

---

**Yiddish**

איך רעד יידיש

**Yoruba**

Mo nso Yooba

---

## Z

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**Zulu**

Ngiyasikhuluma isiZulu



## Selected Indigenous Languages of Mexico

<b>Agrupación Lingüística</b>	<b>Variante Lingüística</b>	<b>Frase en español</b>	<b>Frase en lengua</b>
chichimeo jonaz	chichimeco jonaz	yo hablo chichimeca	ikáuj úza' ér'í
mazateco	mazateco del norte	yo hablo mazateco Hablo la lengua de Santa María Chilchotla	Cha'ña enná Cha'ña énn nda xo
maya	maya	Yo hablo maya	teen k-in t'aan maya
mixe	mixe bajo	Yo hablo mixe	Madyakpiëch ayuuk
	mixe alto, de Tlahuitoltpec	Yo hablo mixe	Xaamkëjxpët ayuuikl èts nkajpyxyppy
mixteco	mixteco del oeste de la costa	yo hablo mixteco	Yuu kain se'en savi ñu ñundua

## Selected Indigenous Languages of Mexico

<b>Agrupación Lingüística</b>	<b>Variante Lingüística</b>	<b>Frase en español</b>	<b>Frase en lengua</b>
náhuatl	náhuatl de la huasteca veracruzana (se entiende junto con Veracruz y San Luis Potosí)	yo hablo náhuatl	Na nilajitowa náhuatl
tojolabal	tojolabal	yo hablo tojolabal	Ja 'ke'ni wala kúmaniyon tojol-abál
triqui	triqui de la baja	yo hablo triqui	'unj a'mii xna' ánj nu'a
tseltal	tseltal (variante unificada)	Yo hablo tseltal	Te jo'one ja k'op te bats'il k'op tseltal
tsotsil	tseltal (variante unificada)	Yo hablo tsotsil	Vu'une jina'xi k'opoj ta bats'i k'op
zapoteco	zapoteco de la planicie costera	yo hablo zapoteco	Naa riné' diidxazá
chinanteco	chinanteco del sureste medio	yo hablo chinanteco	Jnea lo'n jujimí k'ee 'dsa mo'kuöo

**A - pg. 3**

Amharic  
Arabic  
Armenian

**B - pg. 3**

Bengali  
Bosnian  
Bulgarian  
Burmese

**C - pg. 4**

Cambodian  
Cantonese  
Catalan  
Croatian  
Czech

**D - pg. 5**

Danish  
Dari  
Dutch

**E - pg. 5**

Estonian

**F - pg. 5**

Finnish  
French

**G - pg. 6**

German  
Greek  
Gujarati

**H - pg. 7**

Haitian Creole  
Hebrew  
Hindi  
Hmong  
Hungarian

**I - pg. 8**

Icelandic  
Ilocano  
Indonesian  
Italian

**J - pg. 8**

Japanese

**K - pg. 9**

Kackchiquel  
Korean  
Kurdish  
Kurmanci

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Laotian  
Latvian  
Lithuanian

**M - pg. 10**

Mandarin  
Mam  
Mon

**N - pg. 10**

Norwegian

**P - pg. 11**

Persian  
Polish  
Portuguese  
Punjabi

**Q - pg. 11**

Qanjobal  
Quiche

**R - pg. 12**

Romanian  
Russian

**S - pg. 12, 13**

Serbian  
Sign Language  
Slovak  
Slovenian  
Somali  
Spanish  
Swahili  
Swedish

**T - pg. 13, 14**

Tagalog  
Tamil  
Thai  
Turkish

**U - pg. 14**

Ukrainian  
Urdu

**V - pg. 14**

Vietnamese

**W - pg. 14**

Welsh

**X - pg. 15**

Xhosa

**Y - pg. 15**

Yiddish  
Yoruba

**Z - pg. 15**

Zulu

**See page 16, 17**  
for selected  
indigenous  
languages  
of Mexico.

# Limited English Proficiency Resources

## [www.lep.gov](http://www.lep.gov)

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**“I Speak”** is provided by the Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL).

Special thanks to the Department of Justice Bureau of Justice Assistance and the Ohio Office of Criminal Justice Services, for inspiration and permission to use their “I Speak” guide as the initial source.

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## Office for Civil Rights and Civil Liberties

### [www.dhs.gov/crcl](http://www.dhs.gov/crcl)

Toll Free: 1-866-644-8360

Toll Free TTY: 1-866-644-8361

Email: [crcl@dhs.gov](mailto:crcl@dhs.gov)

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## LIA and RA Request Form



700 Adams Avenue

Memphis, TN 38105

Telephone: 901-544-1100

Fax: 901-544-1208

## **Live-In Aide and Reasonable Accommodation Request Form**

☐ **Live-In Aide**

Date: \_\_\_\_\_

☐ **Reasonable Accommodation**

Property Name: \_\_\_\_\_ Property Manager Name: \_\_\_\_\_

Head of Household Name: \_\_\_\_\_

(For RAR) Name of Member, if not HOH: \_\_\_\_\_

Client #: \_\_\_\_\_

Client's Current Telephone #: \_\_\_\_\_

### **Reason for Request:**

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Doctor's Name: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Documentation attached: Yes\_\_\_\_ No\_\_\_\_

Tenant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager of Housing Operations Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Approved**\_\_\_\_\_

**Denied**\_\_\_\_\_

**Date**\_\_\_\_\_

## Live In Aide Agreement



Public Housing Program  
Live-In Aide Agreement

Date: \_\_\_\_\_

Head of Household: \_\_\_\_\_

Unit Address: \_\_\_\_\_

Development/Site: \_\_\_\_\_

\_\_\_\_\_ is in receipt of a request for \_\_\_\_\_ to be considered as a live-in aide for \_\_\_\_\_.

The Live-In Aide agrees to the following:

- 1) S/he is solely a member of the household to provide essential care to \_\_\_\_\_. If at any point the family member no longer requires assistance, or if the household member severs the relationship at will, without reason, the live-in aide has no other rights to the unit and/or the voucher. If the relationship is severed, the live-in aide will move out of the unit immediately.
- 2) S/he agrees to comply with mandatory screening for criminal background. This includes completing the attached questionnaire and consent to a criminal background investigation.
- 3) If the assisted family member dies or is otherwise required to remain outside of the unit for a period exceeding 180 days, the live-in aide has no right to remain in the unit and will vacate the unit immediately.
- 4) While the live-in aide is in the unit, he or she agrees that they are bound by the terms of the lease and tenancy addendum.
- 5) The Live-In Aide certifies that he or she has read and understands the Lease Agreement for the unit listed above.
- 6) Both the Tenant and the Live-In Aide certify that they have received a copy of the Addendum to the Lease.

Live-In Aide: \_\_\_\_\_ Date: \_\_\_\_\_

Resident: \_\_\_\_\_ Date: \_\_\_\_\_

Resident: \_\_\_\_\_ Date: \_\_\_\_\_

Property/Asst. Manager: \_\_\_\_\_ Date: \_\_\_\_\_

Warning: Section 1001 of Title 18 of U.S. code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction. Federal law requires us to verify drug and criminal background and sex offender registration information for all adult household members applying for assisted housing. To enable us to do this, all household members aged 18 or over must answer the following questions and sign below to consent to a background check. The questions ask about drug-related and other criminal activity that could adversely affect the health, safety, or welfare of other residents. The Memphis Housing Authority will deny the application of any applicant who does not provide complete and accurate information on this form or does not consent to a background check.



No Smoking Policy Addendum Form



## NO SMOKING POLICY ADDENDUM

### **Smoke Free/No Smoking**

The ultimate objective is to have a smoke free facility, while at the same time respecting the rights of residents who are smokers. Out of concern for the effects that second-hand smoke has on those with respiratory or other health related conditions, Memphis Housing Authority has adopted a smoke free policy.

### **Regulations of Smoking Indoors:**

Smoking shall be prohibited in all enclosed areas of development. This includes, but is not limited to, the community building, all common areas, individual apartments, hallways, stairs, elevators, restrooms, and any other enclosed areas.

### **Regulation of Smoking Outdoors:**

Notwithstanding the above prohibition on smoking in enclosed areas, MHA also prohibits smoking in all outdoor areas, including decks and patios, except in the designated smoking area. This area is physically accessible to all residents and located 25 feet away from any building to ensure that tobacco smoke does not enter the enclosed areas of the development.

Residents and guests can use the outdoor designated smoking area at any time but must not infringe on any resident's right to the quiet enjoyment of their apartment.

### **No Smoking Policy Agreement:**

I understand that MHA has a Smoke Free Policy that prohibits smoking in any of the common areas, within any enclosed areas of the complex including individual apartments, decks, and patios of the complex. I also understand that there is a designated smoking area that MHA residents and guests who smoke may use. A violation of this Agreement may result in a lease termination.

I have received and read a copy of the MHA Smoke Free Policy and agree to abide by its provisions.

\_\_\_\_\_  
Applicant/Resident Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Spouse or Co-Head Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Another Adult (18 & older) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent of MHA

\_\_\_\_\_  
Date

## Pet Policy Forms



## Memphis Housing Authority Pet Agreement

1. Management considers the keeping of pets a severe responsibility and risk to each resident in the apartment. If you do not adequately control and care for a pet, you will be held liable if it causes any damage or disturbs other residents.
2. **Conditional Authorization for Pet.** You may keep the pet described below in the apartment until Dwelling Lease is terminated. Management may terminate this authorization sooner if your right of occupancy is lawfully terminated or if your pet, your guests, or any member of your household violate any of the rules contained in MHA's Pet Policy or this Agreement.
3. **Pet Deposit.** The pet deposit will be \$ 300.00. **The pet fee for a birdcage or fish tank is \$50.00.** The pet deposit is a one-time, refundable charge.
  - a. If at any time in the future, this pet is replaced by another animal, another one-time fee may be charged for that animal.
  - b. This fee will be used to pay reasonable expenses directly attributable to the pet's presence in the complex, including but not limited to the cost of repairs to and fumigation of the apartment.
4. **Liability Not Limited.** The deposit under this Pet Agreement does not limit the resident's liability for property damages, cleaning, deodorization, de-fleaing, replacements, or personal injuries.
5. **Description of Pet.** You may keep only one pet as described below. The pet may not exceed eighteen (18) inches in height and twenty-five (25) pounds in weight. You may not substitute other pets for this one without amending this agreement.

Pet's Name \_\_\_\_\_ Type \_\_\_\_\_

Breed \_\_\_\_\_ Color \_\_\_\_\_ Weight \_\_\_\_\_ Age \_\_\_\_\_

Housebroken? \_\_\_\_\_ City of License \_\_\_\_\_ License No. \_\_\_\_\_

Date of last Rabies shot \_\_\_\_\_



Name, address, and phone number of person able to care for pet in case of resident's permanent or temporary inability to care for animals:

Name \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Attach Photo of Pet

### **Pet Policy Certification**

I have read, fully understand, and will abide by the rules and regulations in the MHA Pet Policy and this Pet Agreement.

By \_\_\_\_\_

Title \_\_\_\_\_

Resident \_\_\_\_\_

Resident \_\_\_\_\_

Resident \_\_\_\_\_

## Property Transfer Forms



## TRANSFER REQUEST FORM

(To Be Completed by Management)

Leaseholder's Name (Last Name, First Name):	Requested Date:	Requested Bedrooms:		
Current Development Name:	Current Bedrooms:			
Current Address:		Phone:		
<b>Household Composition: List all family members excluding Leaseholder.</b>				
<b>Name</b>	<b>Age</b>	<b>Sex</b>	<b>Name</b>	<b>Age</b>
Unit Offers (Indicate 1 <sup>st</sup> and 2 <sup>nd</sup> ):				
New Development Name:		Approval Date:	Approved Bedrooms:	Move-in Date:
<b>Transfer Reason:</b>				
<b>Priority 1 (Emergency)</b> <input type="checkbox"/> Elevated Blood <input type="checkbox"/> Fire <input type="checkbox"/> Flood <input type="checkbox"/> Lack of hot water/heat <input type="checkbox"/> Loss of water <input type="checkbox"/> Code Violation <input type="checkbox"/> Medical Emergencies/Disability <input type="checkbox"/> Immediate Threat of Life <input type="checkbox"/> Domestic Violence	<b>Priority 2</b> <input type="checkbox"/> Over/Under-Housed <input type="checkbox"/> Demolition <input type="checkbox"/> Medical Need (Non-Emergency) <input type="checkbox"/> Potential Dangers <input type="checkbox"/> Major Repairs	<b>Priority 3</b> <input type="checkbox"/> Under Housed <input type="checkbox"/> UPCS/REAC Repairs	<b>Priority 4</b> <input type="checkbox"/> All other	
<b><i>**Appropriate documentation must be attached for all emergency transfer requests.</i></b>				

Asset Management Manager \_\_\_\_\_ Date \_\_\_\_\_

New Property/Assistant Manager \_\_\_\_\_ Date \_\_\_\_\_



## TRANSFER REQUEST FORM

Information to be included with the file before the transfer is approved by Asset Management

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Tenant's Name: \_\_\_\_\_

Payment History (last 12 months) \_\_\_\_\_

What is the account balance: \$ \_\_\_\_\_

List any complaints of records involving criminal activity:

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Is this tenant on Probation: ☐ Yes ☐ No

If Yes, for what reason:

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Is this tenant an unsatisfactory housekeeper: ☐ Yes ☐ No

If so, what is the disposition of this case:

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Is this tenant on a repayment agreement: ☐ Yes ☐ No

If so, what is the balance of the RPA's \_\_\_\_\_

Is this tenant currently under bankruptcy: ☐ Yes ☐ No

If so, what is disposition of the case: \_\_\_\_\_

Please list any additional information that may be helpful to the next manager regarding this family:

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Current Property/Assistant Manager \_\_\_\_\_ Date \_\_\_\_\_



## Reasonable Accommodation Forms



## MEMPHIS HOUSING AUTHORITY REASONABLE ACCOMMODATION REQUEST

Head of Household: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_  
(PRINT NAME)

Requestor: \_\_\_\_\_  
(PERSON REQUESTING REASONABLE ACCOMMODATION IF OTHER THAN HEAD OF HOUSEHOLD)

Address: \_\_\_\_\_ Client #: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Head of Household, Other Requestor, or Authorized Representative of Requestor)

A disability is defined, in part, as a physical or mental impairment that substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such an impairment.

A Public Housing resident may request a change in their current unit or a transfer to a unit that has already been changed (in the resident's development or another development). An applicant, resident, or program participant may request assistance with, or change in, an MHA practice, rule, policy, procedure, program, or service.

MHA will work with the applicant, resident, or program participant to determine how to provide the reasonable accommodation request. MHA may require documentation to support the reasonable accommodation request(s).

1. The following is the name of the household member with a disability who needs a reasonable accommodation:

Name: \_\_\_\_\_

2. Because of the above household member's disability, the following change(s) or assistance (reasonable accommodation) is necessary so that the individual can participate in a MEMPHIS HOUSING AUTHORITY (MHA) housing assistance program as easily or successfully as other program participants. Check the kind of change(s) you need.

☐ A change or special feature in a MHA dwelling, building or property.

☐ Assistance with, or change in, a MHA practice, rule, policy, procedure, program or service.

3. Describe the problem that the household member named in item 1 is having, or might have, with a MHA dwelling, building, property, practice, rule, policy, procedure, program, or service:

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## **MEMPHIS HOUSING AUTHORITY REASONABLE ACCOMMODATION REQUEST**

4. Describe the type of change or assistance (reasonable accommodation) required:

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5. Describe how this change or assistance will help with the problem:

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6. Indicate the verification source MHA may contact to verify that the household member named in item 1 has a disability and needs a reasonable accommodation.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: ( \_ \_ ) \_\_\_\_\_

Note: Individuals may obtain a copy of the MHA Reasonable Accommodation Policies and Procedures, upon request, from designated Site managers and Asset Management Manager's.



## MEMPHIS HOUSING AUTHORITY REASONABLE ACCOMMODATION VERIFICATION

Head of Household: \_\_\_\_\_ Client No: \_\_\_\_\_

Re: Reasonable Accommodation Request

For: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_  
(PRINT NAME OF HOUSEHOLD MEMBER FOR WHOM THE REQUEST IS BEING MADE)

PLEASE RETURN TO: \_\_\_\_\_  
(Name of MHA Employee)

\_\_\_\_\_  
(Address of MHA Employee)

\_\_\_\_\_  
(Phone/Fax of Employee)

THE FOLLOWING SECTION IS TO BE FILLED OUT BY THE DESIGNATED VERIFICATION SOURCE:

1. The individual seeking an accommodation is a person with a disability according to the following definition: *“Disability” is defined as a physical or mental impairment that substantially limits one or more major life activities; a record of having such an impairment or being regarded as having such an impairment.* [ ] YES [ ] NO
2. Describe the problem(s) that the person is having with the MHA dwelling, building, property, practice, rule, policy, procedure, program, or service:
3. Describe the type of change(s), feature(s) or assistance required:
4. Using the checklist on page 2 of 2, indicate the functional limitation(s) (i.e., the way major life activities are substantially limited) of the person for whom the accommodation is requested.
5. Please describe the relation between the person's functional limitation(s) and the requested accommodation. Do not provide unnecessary details about the medical history or disabled status of the person seeking an accommodation.

Name of Verification Source: \_\_\_\_\_  
(PRINT NAME OF HEALTH CARE PROVIDER)

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Title of Verification Source: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_



## MEMPHIS HOUSING AUTHORITY REASONABLE ACCOMMODATION VERIFICATION

**CLIENT'S NAME:**

**CLIENT#:**

Last		First	
<b>TYPE OF MAJOR LIFE ACTIVITIES</b> <i>(Check applicable)</i>		<b>DISABILITY STATUS</b> <b>D= Disabled* (or) ND= Not Disabled</b> <i>(Enter D or ND as applicable)</i>	
<input type="checkbox"/> Walking			
<input type="checkbox"/> Standing			
<input type="checkbox"/> Climbing			
<input type="checkbox"/> Bending			
<input type="checkbox"/> Stooping			
<input type="checkbox"/> Kneeling			
<input type="checkbox"/> Use of Hands			
<input type="checkbox"/> Reaching			
<input type="checkbox"/> Self-Care			
<input type="checkbox"/> Speaking			
<input type="checkbox"/> Breathing			
<input type="checkbox"/> Seeing			
<input type="checkbox"/> Hearing			
<input type="checkbox"/> Lifting			
<input type="checkbox"/> Intelligence (a person's capacity for understanding)			
<input type="checkbox"/> Thinking (the ability to form or conceive in the mind)			
<input type="checkbox"/> Perception (the brain's interpretation of internal and external stimuli)			
<input type="checkbox"/> Judgment (the ability to assess a given situation and act appropriately)			
<input type="checkbox"/> Mood (emotional tone underlying the behavior)			
<input type="checkbox"/> Behavior (specifically examining behavior that is disruptive, distressing or aggressive)			
<input type="checkbox"/> Other (Please Specify in non-technical terms that simply describe what the client cannot do or has difficulty doing)			
<b>HEALTH CARE PROVIDER / VERIFICATION SOURCE INFORMATION</b> <b>TELEPHONE NUMBER</b> (____) _____		<b>PRINT NAME:</b>  <b>SIGNATURE: _____ DATE_ /_ /_</b>	
<b>NOTES (use additional sheet if necessary):</b>			

*"Disability" is defined as a physical or mental impairment that substantially limits one or more major life activities.*



## MEMPHIS HOUSING AUTHORITY AUXILIARY AIDS REQUEST

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Head of Household \_\_\_\_\_  
(PRINT NAME)

Address: \_\_\_\_\_ Client#: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Requestor: \_\_\_\_\_

**(PERSON REQUESTING AUXILIARY AID IF OTHER THAN HEAD OF HOUSEHOLD, PRINT NAME)**

MEMPHIS HOUSING AUTHORITY (MHA) takes appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public.

Auxiliary aids include, but are not limited, to providing the following items or services when necessary for effective communication between MHA and persons including, but not limited to, MHA applicants, residents or program participants:

1. A qualified sign language interpreter,
2. Telecommunication Device for the Deaf (TDD),
3. Assisted Listening Device (ALD),
4. A reader,
5. Printed materials in Braille,
6. Printed materials in large print,
7. Audiotape versions of print materials.

MHA furnishes appropriate auxiliary aids where necessary to afford an individual with disabilities an equal opportunity to participate in, and enjoy the benefits of, its programs or activities. In determining what auxiliary aids are necessary, MHA shall give primary consideration to the requests of the individual with disabilities.

MHA is not required to provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (including, but not limited to, personal hearing aids, walkers, canes, or wheelchairs).

MHA is not required to provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (including, but not limited to, personal hearing aids, walkers, canes, or wheelchairs).

THE FOLLOWING IS TO BE COMPLETED BY THE MHA STAFF PERSON

1. Type of auxiliary aid requested: \_\_\_\_\_
2. If a sign language interpreter is requested, obtain the following information:
  - a. Address where the interpreter needs to be: \_\_\_\_\_
  - b. Date and time the interpreter is needed: \_\_\_\_\_
  - c. How long (in hours) the interpreter is needed: \_\_\_\_\_
  - d. What kind of interpreter is needed (e.g., American Sign Language) \_\_\_\_\_



**MEMPHIS HOUSING AUTHORITY  
AUXILIARY AIDS REQUEST**

1. If an assistive listening device is requested, ask what type is required:

\_\_\_\_\_

2. If materials in large print format are requested, ask what font size (if known) and font style (if known) the person requests:

\_\_\_\_\_

3. If printed materials in audio tape format are requested, ask what language the person requests:

\_\_\_\_\_

4. Following is additional information that is necessary for providing the requested for auxiliary aid:

\_\_\_\_\_  
\_\_\_\_\_

The MHA staff person obtaining information regarding auxiliary aids may direct questions to the ADA Coordinator listed below.

Individuals may obtain a copy of the MHA Reasonable Accommodation Policies and Procedures, upon request, from designated Site Managers and Asset Management Managers.

Name of MHA employee taking the request: \_\_\_\_\_  
(PRINT NAME)

Phone: (\_\_\_\_) \_\_\_\_\_



## MEMPHIS HOUSING AUTHORITY AUTHORIZATION FOR RELEASE OF INFORMATION

Head of Household: \_\_\_\_\_

RE: Household member with disability: \_\_\_\_\_

I hereby authorize the release of information to MEMPHIS HOUSING AUTHORITY regarding the request for reasonable accommodation described on this form. This release shall constitute a limited authorization for the release of information, as described below.

I hereby authorize \_\_\_\_\_ to consult with

representatives of the MEMPHIS HOUSING AUTHORITY, in writing, in person, or by telephone concerning the physical or mental impairment(s) that I assert to qualify as an individual with a disability for the sole purpose of this reasonable accommodation request.

For purposes of this Release, a “Qualified Individual with a Disability” is defined as a person who has a physical or mental impairment that:

1. Substantially limits one or more major life activities
2. Has a record of such an impairment
3. Is regarded as having an impairment “A Physical or Mental Impairment” is defined as:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems including, but not limited to: neurological, musculoskeletal, special sense organs, respiratory, and speech organs; **or**

2. 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 visual, speech and hearing impairments, epilepsy, multiple sclerosis, cancer, etc.

“Major Life Activities” include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“Has a Record of Such an Impairment (mental or physical)” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is Regarded as Having an Impairment” means:

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





## MEMPHIS HOUSING AUTHORITY AUTHORIZATION FOR RELEASE OF INFORMATION

2. 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 the impairment.
3. Has none of the impairments defined by Section 504's definition of "physical or mental impairment", **but** is treated by a recipient as having such an impairment.

In addition, I authorize \_\_\_\_\_ to provide only documentation that is necessary to verify that I meet the definition of a "Qualified Individual with a Disability", as defined above.

This Authorization solely authorizes the release of information necessary to verify the following:

1. Documentation necessary to verify that the person meets the definitions noted above;
2. A description of the needed accommodation; and,
3. A description of the identifiable relationship between my disability and the requested accommodation(s).

This Authorization for Release of Information should only seek information that is necessary to determine if the requested reasonable accommodation is needed because of a disability.

This Authorization does **not** authorize the MEMPHIS HOUSING AUTHORITY to examine my medical records, including diagnosis or test result(s); nor does this authorize the release of detailed information about the nature or severity of my disability.

The information/documentation released as a result of this Authorization shall be kept confidential and not shared with anyone unless required to make or assess a decision to grant or deny a reasonable accommodation request.

\_\_\_\_\_  
Name of Family Member/Parent/Legal Guardian [Print]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Head of Household

### **PLEASE PROVIDE THE FOLLOWING INFORMATION:**

1. Name of Health Care Provider/Documenting Authority:

\_\_\_\_\_

2. Address of Health Care Provider/Documenting Authority:

\_\_\_\_\_

3. Telephone Number of Health Care Provider/Documenting Authority:

\_\_\_\_\_

4. Facsimile Number of Health Care Provider/Documenting Authority:

\_\_\_\_\_



**MEMPHIS HOUSING AUTHORITY**  
**REQUEST FOR MORE INFORMATION OR VERIFICATION**  
**REGARDING A REASONABLE ACCOMMODATION**

Date:     \_/\_/\_\_\_\_/\_\_\_\_

To (Head of Household/Verification Source): \_\_\_\_\_ Client No:

\_\_\_\_\_

Re: Reasonable Accommodation Request

For: \_\_\_\_\_

(PRINT NAME)

We have received a request for a reasonable accommodation. We need to know more about the following matter related to the reasonable accommodation request before we can make a final determination:

\_\_\_\_\_  
\_\_\_\_\_

We need to know more because:

\_\_\_\_\_  
\_\_\_\_\_

Here are some ways you could give us more information:

\_\_\_\_\_  
\_\_\_\_\_

If these ways are a problem for you, there may be some other ways to provide the information we need. We will be happy to talk to you about other ideas you may have.

If you think that you have already given us this information or if you think we should not ask for this kind of information, please call us at \_\_\_\_\_. Also, please call if you have any other questions. We look forward to meeting with you. Thank you.

\_\_\_\_\_  
MHA Employee (Print Name)

\_\_\_\_\_  
Title

\_\_\_\_\_  
MHA Employee's Signature

(\_\_\_\_\_)\_\_\_\_\_  
Phone Number

\_\_\_\_\_ MHA Return Address



**MEMPHIS HOUSING AUTHORITY  
RELEASE OF DISABILITY-RELATED SPECIAL  
NEEDS IN CASE OF EMERGENCY EVACUATION**

Head of Household: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_  
(PRINT NAME)

Address: \_\_\_\_\_ Client #: \_\_\_\_\_

1. The following is the name of the household member with a disability who will need assistance in the event of an emergency:

Name: \_\_\_\_\_

2. The person listed above requires the following assistance (due to disability) in case of an emergency

(please be sure to include any assistance you may need because of special equipment you use due to your disability):

\_\_\_\_\_  
\_\_\_\_\_

3. The person listed above has asked that assistance or medical care be provided in the event of an emergency.

4. The person indicated below authorizes MHA to provide the information above to the appropriate police and/or fire department(s) that identifies the special needs that the disabled household member requires (due to disability) in case of an emergency. The person indicated below also indicates that they have authority to release this information.

Name: \_\_\_\_\_  
(PRINT NAME)

Relationship to the person listed in item 1: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Resident Transfer Request Form**



## RESIDENT TRANSFER REQUEST FORM

Date: \_\_\_\_\_

Resident's Name: \_\_\_\_\_ Development: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

### Transfer Reason:

Priority 1 - Emergency	
Priority 2 - Occupancy	
Priority 3 - Voluntary	
Priority 4 - Incentive	

### Development Preference:

First Available Unit	
1 <sup>st</sup> Choice	
2 <sup>nd</sup> Choice	
3 <sup>rd</sup> Choice	

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property/Assistant Manager Signature

\_\_\_\_\_  
Date

## VAWA – Certification and Alternative Documentation Form

**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):

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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.



## VAWA – Emergency Transfer Request Form

**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) \_\_\_\_\_

## VAWA – Occupancy Rights and Certification Form

## **Memphis Housing Authority**

### **Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

#### **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.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that Memphis Housing Authority 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 or housing choice vouchers, 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.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

**Protections for Tenants**

If you are receiving assistance under public housing or housing choice vouchers, 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 or housing choice vouchers 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**

Memphis Housing Authority 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 Memphis Housing Authority chooses to remove the abuser or perpetrator, Memphis Housing Authority 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, Memphis Housing Authority must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of

time, 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, Memphis Housing Authority must follow Federal, State, and local eviction procedures. In order to divide a lease, Memphis Housing Authority 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, Memphis Housing Authority 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, Memphis Housing Authority 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, the housing provider 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 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, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider 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.

Memphis Housing Authority 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.

Memphis Housing Authority's emergency transfer plan provides further information on emergency transfers, and Memphis Housing Authority 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**

Memphis Housing Authority 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 Memphis Housing Authority must be in writing, and Memphis Housing Authority 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. Memphis Housing Authority 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 Memphis Housing Authority as documentation. It is your choice which of the following to submit if Memphis Housing Authority 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 Memphis Housing Authority 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 Memphis Housing Authority has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, Memphis Housing Authority does not have to provide you with the protections contained in this notice.

If Memphis Housing Authority 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), Memphis Housing Authority 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, Memphis Housing Authority does not have to provide you with the protections contained in this notice.

### **Confidentiality**

Memphis Housing Authority 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.

Memphis Housing Authority must not allow any individual administering assistance or other services on behalf of Memphis Housing Authority (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.

Memphis Housing Authority must not enter your information into any shared database or disclose your information to any other entity or individual. Memphis Housing Authority, however, may disclose the information provided if:

- You give written permission to Memphis Housing Authority to release the information on a time limited basis.
- Memphis Housing Authority 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 Memphis Housing Authority or your landlord to release the information.

VAWA does not limit Memphis Housing Authority'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, Memphis Housing Authority 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 Memphis Housing Authority 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 Memphis Housing Authority can demonstrate the above, Memphis Housing Authority 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 a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **Memphis Fair Housing Center, 200 Jefferson, #1075, Memphis, TN 38103-901432-4669** or **Memphis HUD Office, 200 Jefferson, Suite 300, Memphis, TN 38103-901-544-3367.**

**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, Memphis Housing Authority must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Memphis Housing Authority's Asset Management Department - (901) 544-1181.

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 **Shelby County Victims and Rape Crisis Center (CVRCC) 901-222-3950** or the **24-Hour Sexual Assault Hotline -901-222-4350.**

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 **Shelby County Victims and Rape Crisis Center (CVRCC) 901-222-3950** or the **24-Hour Sexual Assault Hotline -901-222-4350.**; Use **911** to report an emergency.

NOTICE OF OCCUPANCY RIGHTS UNDER  
THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development  
OMB Approval No. 2577-0286  
Expires 06/30/2017

Victims of stalking seeking help may contact **Shelby County District Attorney's Office-Victim and Witness Units-901-221-1300, Orders of Protection -Shelby County Victims and Rape Crisis Center (CVRCC) 901-222-3950, or on-line at <https://shelbycountyttn.gov/3771/Orders-of-Protection>.**

NOTICE OF OCCUPANCY RIGHTS UNDER  
THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development  
OMB Approval No. 2577-0286  
Expires 06/30/2017

**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.

NOTICE OF OCCUPANCY RIGHTS UNDER  
THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development  
OMB Approval No. 2577-0286  
Expires 06/30/2017

**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):

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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.